

Decision 95-09-037 September 7, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of East Bay Connection, Inc. (PSC-1454) for authority to operate as a passenger stage corporation: (1) between Oakland International Airport (OAK), on the one hand, and points and places in the Counties of Contra Costa, Alameda and Solano, and San Francisco International Airport (SFO), on the other hand; and (2) between SFO, on the one hand, and points and places in the Counties of Contra Costa, Alameda and Solano, on the other hand; and to establish Zones of Rate Freedom for such service.

Application 94-01-030
(Filed January 26, 1994;
amended July 29, 1994 and
December 5, 1994)

ORIGINAL

of an application to transfer PSC-1454.

By letter dated July 1, 1994, addressed to Mr. Richard D. Black advised that his firm, James Law Offices,

OPINION

This application, as originally filed, by East Bay Connection, Inc. (East Bay), a California corporation, requested authority to expand the points served under Passenger Stage Corporation Certificate, PSC-1454, and establish a Zone of Rate Freedom (ZORF) for the requested expanded service.

On April 1, 1994, in an Advice of Participation, the Commission's Transportation Division, now the Safety and Enforcement Division (S&E), recommended that the application be dismissed for various reasons the most serious being the following:

1. Applicant is different than the PSC-1454 certificate holder and was not the applicant but rather was a partner in the partnership of East Bay and the applicant.
2. PSC-1454 is held by a partnership of Bashir A. Jawad and Nazir Ahmad, which was the applicant.

6/26/94

A.94-01-030 ALJ/FJO/gab

ALJ/FJO/gab

Decision 92-09-037 September 1, 1992

Re: Reshad A. Sulymankehli (the partnership).

The other reasons in comparison to the above were minor and would not in and of themselves be sufficient grounds for dismissal, without giving applicant an opportunity to correct the apparent errors.

On April 8, 1994, counsel then representing East Bay in a letter to the assigned Administrative Law Judge (ALJ) requested that the application be held in abeyance until the transfer of PSC-1454 from the partnership to East Bay was applied for and approved. The ALJ advised counsel by telephone that the request was reasonable and could be granted pending an approval of an application to transfer PSC-1454.

By letter dated July 7, 1994, addressed to ALJ O'Leary, Mr. Richard D. Black advised that his firm, Spanos Law Offices, had been retained by East Bay and the partnership in substitution of previous counsel to complete the request set forth in the instant application and also to complete the transfer of authority from the partnership to East Bay. The letter also advised that he expected to file an application for the transfer of authority by the end of July 1994 and also a request to consolidate the transfer of authority application with the instant application.

On July 29, 1994, an application to transfer PSC-1454 from the partnership to East Bay was tendered to the Commission, said application was not docketed and filed as a separate application but rather was amended by the Docket Office and filed and docketed as an amendment to the instant application. PSC-1454, which was issued to the partnership, authorizes the

transportation of passengers and their baggage on an on-call basis between Concord, Lafayette, Pleasant Hill, and Walnut Creek, on the one hand, and the San Francisco International Airport (SFO) and the Oakland International Airport (OAK), on the other hand.

On September 23, 1994, Erik Juul, a Senior Transportation Engineer, sent a letter to Messrs. Spanos and Black advising them that a review of the amendment to the application disclosed that certain additional information, required by the Commission's Rules of Practice and Procedure, needed to be provided before the application could be processed namely:

1. The most recent balance sheet and income statement of East Bay (Rule 36b)
2. A description of the property being transferred, specifically office equipment, vehicles, real or personal property, and the value of such properties (Rule 35b); and
3. Reasons for entering into the transaction and the agreed purchase price and a copy of the sale, lease, or other encumbrance or contract or agreement (Rule 36b).

The letter advised that the noted deficiencies could be remedied by the filing of another amendment.

On December 5, 1994, a "Second Amendment To Application" was filed. That filing set forth the information requested in the staff letter dated September 23, 1994, as follows:

1. A balance sheet dated September 30, 1994, disclosing Assets of \$230,642;

Liabilities of \$146,789 and a resultant equity of \$83,853; and a Profit and Loss Statement for the period January through September 1994 disclosing income of \$644,298, Expenses of \$612,429, and a resultant net profit, before taxes, of \$31,869;

A copy of a purchase agreement between the partnership and RJNB Corporation, dated April 11, 1992. The agreement that the buyer, RJNB Corporation will issue to sellers shares of its common stock as follows:

Partner	No. of Shares
Reshad Sulymankhel	19,384
Bashir Sulymankhel	6,006
Jawad Sulymankhel	1,092
Nazir Sulymankhel	819

3. Although not specifically set forth, it is clear from the material submitted that the reason for the transaction was expressly for the purpose of incorporating the business.

On January 24, 1995, the staff pointed out that the purchaser in the purchase agreement was RJNB, Inc. and not East Bay. The staff requested a meeting, which was held in the ALJ's office on March 20, 1995. Those attending the meeting were ALJ O'Leary; Erik Juul, representing the staff; and Richard D. Black, representing the applicants. The results of that meeting are contained in a letter from Mr. Black to ALJ O'Leary, dated March 27, 1995. Enclosed with the letter are various additional documents requested by the staff. The letter is received in evidence as Exhibit 1.

The second amendment to the application to the application, filed December 5, 1994, shows that East Bay is the intended transferee. The information included with the second amendment reflects the financial positions of East Bay.

On May 4, 1995, the staff advised that the application could be processed by ex parte order.

Notice of the filing of the application and the first amendment thereto appeared on the Commission's Daily Transportation Calendars of January 31, 1994 and August 24, 1994, respectively. Notice of the filing of the second amendment appeared on the Commission's Daily Calendar dated January 4, 1995. No protests to the granting of the application have been received.

Findings of Fact

The partnership holds a certificate of public convenience and necessity authorizing operations as a passenger stage corporation on an on-call basis between Concord, Lafayette, Pleasant Hill, and Walnut Creek, on the one hand, and SFO and OAK, on the other hand (PSC-1454).

This application, as amended seeks the following:

Transfer of PSC-1454 from the partnership to East Bay;

- b. Expansion of PSC-1454 to provide on-call service between OAK and SFO, on the one hand, and points in the counties of Contra Costa, Alameda, and Solano, on the other hand; and

- c. Establishment of a ZORP for service

By January 1, 1996, Bashir A. Sulymankhel, and Rashad A. Sulymankhel may

3. Public convenience and necessity requires the requested expansion of authority.

4. The proposed ZORF is reasonable.

5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is not adverse to the public interest and should be authorized.

2. The application for expansion of authority should be granted.

3. The application for a ZORF should be granted to the extent set forth in the following order.

4. A public hearing is not necessary.

5. Prior to changing fares under the ZORF authorized below, a 10 day notice should be given to the Commission. Since there is an immediate need for the requested relief, the following order should be effective on the date signed.

6. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O.R.D.E.R.
Expansion of PSC-1424 to provide call service between OAK and SFO, on the one hand, and points in the counties of OR, ID, ER, and SO, on the other hand; and

IT IS ORDERED that

- 1. By January 1, 1996, Bashir A. Sulymankehl, Nazir A. Sulymankehl, Jawad A. Sulymankehl, and Reshad A. Sulymankehl may

sell and transfer the operative rights (and property) specified in the application to East Bay Connection, Inc.

2. Purchaser shall:

a. File with the Safety and Enforcement Division a written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.

b. Amend or reissue seller's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days notice to the Commission.

c. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol safety rules.

d. Maintain accounting records in conformity with the Uniform System of Accounts.

e. Remit to the Commission the Transportation Reimbursement Fee required by Public Utilities (PU) Code § 403 when notified by mail to do so.

3. If the transfer is completed on the effective date of the tariffs, a certificate of public convenience and necessity is granted to East Bay Connection, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in

Code § 226 between the points and over the routes set forth in Appendix X to PSC 8614 to transport persons and baggage.

Wesley
Acting Executive Director
COMMISSIONERS TODAY
WAS APPROVED BY THE ALJ
I CERTIFY THAT THE ORDER SET FORTH IN
DANIEL M. HESSLER
President
HENRY M. DROUE
Commissioners

The (certificate) of public convenience and necessity granted by Decision 89-08-039 is revoked on the effective date of the tariffs.

5. Purchaser is authorized under PU Code §1454.2 to establish fares within a zone of rate freedom (ZORF) as proposed in the application.

6. Purchaser shall file a ZORF tariff in accordance with the application on not less than 10 days notice to the Commission and to the public and subject to Commission approval. The ZORF shall be at the levels set forth in the application.

7. Purchaser may make changes within the ZORF by filing amended tariffs on not less than 10 days notice to the Commission and to the public. The tariff shall include for each route the authorized maximum and minimum fares, and the fare to be charged.

8. In addition to posting and filing tariffs, applicant shall post notice explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least 5 days before the effective date of the fare changes and shall remain posted for at least 30 days.

This order is effective today.

Dated September 7, 1995, at Los Angeles, California.

granted to East Bay Connection, Inc., a corporation, authorizing the tariffs, a certificate of public convenience and necessity is

DANIEL Wm. FESSLER, President
GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY

Wealey Franklin
Acting Executive Director

T/MM

Appendix PSC-8614 East Bay Connection, Inc. Original Title Page
(a corporation)

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-8614

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes authority heretofore granted to
Bashir A. Sulymankhel, Nazir A. Sulymankhel, Jawad A.
Sulymankhel, and Reshad A. Sulymankhel
by D.89-08-039.

Issued under authority of Decision 95-09-037,
dated September 7, 1995, of the Public Utilities Commission of
the State of California in Application 94-01-030.

I N D E X

	<u>Page</u>
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS	2, 3
SECTION II. SERVICE AREA	3
SECTION III. ROUTE DESCRIPTION	3

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.

This certificate supersedes all passenger stage operative authority granted to Bashir A. Sulymankhel, Nazir A. Sulymankhel, Jawad A. Sulymankhel, and Reshad A. Sulymankhel a partnership.

East Bay Connection, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage on an "on-call" basis, between the points described in Section II, and San Francisco (SFO) and Oakland (OAK) International Airports, over and along the route described in Section III, subject, however, to the authority of this Commission to change or modify the route at any time and subject to the following provisions:

- a. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- b. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be offered and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.

Issued by California Public Utilities Commission.

Decision 95-09-037, Application 94-01-030.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS (Concluded).

- c. No passengers shall be transported except those having a point of origin or destination at either SFO or OAK.
- d. This certificate does not authorize the holder to conduct any operation on the property of or into any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

The Counties of Contra Costa, Alameda and Solano.

SECTION III. ROUTE DESCRIPTION.

ON - CALL SERVICE

Commencing from any point or place within the authorized service area, as described in Section II, then over the most convenient streets and highways to SFO or OAK.

Issued by California Public Utilities Commission.

Decision 95-09-037, Application 94-01-030.