

Decision 96-02-052 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
Matthew Shoyookh and Shahriar)
Cheshmehzangi dba Super Holidays)
Tour & Travel and Shahriar)
Cheshmehzangi dba Royal Polo Trans)
for approval of the transfer by sale)
of Passenger Stage Certificate)
(PSC-8106) and vehicles used from)
partnership to individual.)

ORIGINAL

Application 95-11-012
(Filed November 9, 1995)

O P I N I O N

Summary

We will approve the sale of vehicles and transfer of a certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC) from Matthew Shoyookh and Shahriar Cheshmehzangi, a partnership doing business as Super Holidays Tour & Travel (Super Holidays) to Shahriar Cheshmehzangi doing business as Royal Polo Trans (Royal Polo).

Procedural Background

Super Holidays seeks to transfer to Royal Polo the CPCN authorizing it to operate a PSC between points in the City of Anaheim and Buena Park Mall issued to Super Holidays pursuant to our Decision (D.) 92-11-015. The application was filed on November 9, 1995, and notice appeared in the Daily Calendar on November 13, 1995. No protests were received.

Discussion

No public utility may transfer its property that is necessary or useful in the performance of its duties to the public without first having secured the Commission's authorization. (Public Utilities (PU) Code § 851.) The application contemplates that Royal Polo would acquire "used vehicles" from Super Holidays. We may infer that these are the same vehicles that Super Holidays is now using in the exercise of

its CPCN, and their transfer is, accordingly, subject to PU Code Section 851.

PU Code Section 854 prohibits any person or corporation from acquiring or controlling any California utility without prior Commission approval. The Commission has authority to establish by order or rule the definitions of what constitute acquisition or control activities that are subject to § 854.¹ We analyze control on a case-by-case basis.² The transfer of a PSC CPCN from a two-person general partnership to one of its partners does not involve any change in control, absent some provision in the general partnership agreement that would have disabled such partner from exercising actual or working control over the operation of the utility. Nothing in this record suggests that Shahriar Cheshmehzangi had any less control over Super Holidays as a general partner than he will have as a sole proprietor. Therefore, since we have authority to review this application pursuant to PU Code Section 851, we have no need also to invoke our authority under PU Code Section 854.

Royal Polo also holds a charter party certificate (TCP 009834-B) and a Roundtrip Sightseeing Permit (TCP 009834-S) from this Commission. Royal Polo submitted a financial statement showing that it is currently operating at a profit.

Findings of Fact

1. Super Holidays is a PSC subject to the jurisdiction of the Commission.
2. Super Holidays has agreed to transfer its vehicles and CPCN to Royal Polo.

¹PU Code § 854.

²(In re Investigation on the Commission's own motion into the Pacific Telesis Group's "spin-off" proposal (1993) 51 CPUC2d 728, 746 (citing In re MMM Holdings, Inc. (D,89-12-056).)

3. Royal Polo has the ability and financial resources to continue to discharge the duties of a PSC as Super Holidays has performed them.

4. The public will not be adversely affected by the granting of the authority to transfer the vehicles and CPCN.

Conclusions of Law

1. Sale of the vehicles is subject to PU Code Section 851.

2. Sale of the vehicles and transfer of the CPCN should be approved.

3. The proposed sale and transfer is in the public interest and should be authorized.

4. A public hearing is not necessary.

ORDER

IT IS ORDERED that:

1. Matthew Shoyookh and Shahriar Cheshmehzangi, a partnership doing business as Super Holidays Tour & Travel (Super Holidays) may transfer the vehicles and the operative rights specified in the application to Shahriar Cheshmehzangi doing business as Royal Polo Trans (Royal Polo).

2. Royal Polo shall:

- a. Within 30 days of the date of any such transfer, file with the Safety and Enforcement Division written acceptance the certificate, together with a copy of the bill of sale or other transfer document conveying title to the vehicles described in the application in the name of Royal Polo.
- b. Amend or reissue Super Holidays' 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 Order Series 101, 104, 158, and the California Highway Patrol (CHP) safety rules.
- d. Comply with controlled substance and alcohol testing certification program pursuant to Public Utilities (PU) Code Section 1032.1 and General Order Series 158.
- e. Shall maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Public Utilities Code Section 403 when notified by mail to do so.
- g. Comply with PU Code Section 460.7 and 1043, relating to the Workers' Compensation laws of this date.

3. If the transfer described above is completed, on the effective date of the tariff, a certificate of public convenience and necessity (CPCN) is granted to transferee, authorizing him to operate as a passenger stage corporation, as described in PU Code Section 226, between the points and over the routes set forth in Appendix PSC-9834, to transport persons and their baggage.

4. The CPCN granted by Decision (D.) 92-11-015 is revoked on the effective date of Royal Polo's tariffs hereunder.

5. Before beginning service to any airport, Royal Polo shall notify the airport's governing body. Royal Polo shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.

6. Royal Polo is authorized to begin operations on the date that the Executive Director mails a notice to Royal Polo that evidence of insurance is on file with the Commission and that the CHP has approved the use of Royal Polo's vehicles for service.

7. The authority granted hereby expires if not exercised within one year of the date of this order.

8. Application 95-11-012 is closed.

This order is effective today.

Dated February 23, 1996, at San Francisco, California.

DANIEL Wm. FESSLER
President

P. GREGORY CONLON

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

T/MM

Appendix PSC-9834

Shahriar Cheshmehzangi
(an individual)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-9834

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
Matthew Shoyookh and Shahriar Cheshmehzangi, a partnership
by D.92-11-015, as amended.

Issued under authority of Decision 96-02-052, dated
February 23, 1996, of the Public Utilities Commission of
the State of California in Application 95-11-012.

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

This certificate supersedes all passenger stage operative authority granted to Matthew Shoyookh and Shahriar Cheshmehzangi, a partnership.

Shahriar Cheshmehzangi, an individual, 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 a regularly scheduled service between the hotels or motels, as described Section II, on the one hand, and Buena Park Mall and Wild Bill's Restaurant, on the other hand, 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 description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. Scheduled service will be operated only at the designated service points listed in Section II. Such schedules shall be the timetable filed with the Commission. All of the stop points shall be described in the timetable filed with the Commission.
- c. No passengers shall be transported except those have a point of origin or destination at the Buena Park Mall.
- 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.

Issued by California Public Utilities Commission.

Decision 96-02-052, Application 95-11-012.

SECTION II. SERVICE AREA.

The following hotels and motels within the incorporated City limits of Anaheim:

Siesta Inn	Hilton Towers Anaheim
Embassy Suites	Anaheim Marriott
Travelodge (Buena Park)	Quality Inn
Sheraton Anaheim	Holiday Inn Maingate
Anaheim Maingate Inn	Castle Inn & Suites
KOA Campground	Anaheim Plaza Hotel
(Disney Vacational Campground)	Saga Inn
Disneyland Hotel at West Street	Anaheim Inn
Pan Pacific Hotel	Park Vue Inn
Travelodge Apollo Inn	Tropicana Inn
Stovall's Inn	Ramada Maingate
Magic Carpet Motel	Penny Sleeper Inn
Jolly Roger Inn	Howard Johnson's
Inn at The Park	

SECTION III. ROUTE DESCRIPTION.

Commencing at the Buena Park Mall, then via the most convenient streets and highways to Wild Bill's Restaurant, and to the scheduled stops, as indicated in the timetable, at the hotels described in Section II.

Issued by California Public Utilities Commission.

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