

MAY 22 1997

ORIGINAL

Decision 97-05-083 May 21, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Arturo Luna, Antonio Luna and)
 Jeffrey Rhodes, a partnership, doing)
 business as Bay Area Shuttle, for)
 authority to operate as a passenger)
 stage corporation between points in)
 the San Francisco, Alameda and)
 Contra Costa Counties and the)
 Oakland and San Francisco Inter-)
 national Airports, and between)
 Berkeley, Emeryville and Oakland)
 and the Oakland International)
 Airport.)

Application 96-07-025
(Filed July 19, 1996)

O P I N I O N

This application originally indicated Arturo Luna as a partner along with Antonio Luna and Jeffrey Rhodes, with the partnership doing business as Bay Area Shuttle. Investigators from the then Safety and Enforcement Division investigated the operations and practices of Arturo Luna, doing business as Bay Area Shuttle, and indicated concern about that operation. As a result, the Commission opened Investigation (I.) 96-09-032, an Order Instituting Investigation requiring Arturo V. Luna doing business as Bay Area Shuttle, the Partnership operating Oak Tree City Transportation and Roderick N. Santos to show cause why their operating authority should not be revoked. The investigation was consolidated with Application (A.) 96-07-025.

The parties to the investigation entered into a Settlement Agreement and Request For Partial Dismissal, and filed a motion requesting the Commission to adopt it, further clarified by a supplement to the motion. The partial dismissal was with regard to respondents Adelekan M. Aregbe and Eniola Murphy, doing business as Oak Tree Transportation, and Roderick Narvaez Santos. Both

carriers' operating authorities have been revoked administratively due to failure to maintain insurance, and there have been no attempts to reinstate these authorities. Staff investigation determined that the behavior of these carriers is consistent with an intent to abandon the businesses.

Decision 97-02-044 dated February 19, 1997 approved the Settlement Agreement and closed I.96-09-032, leaving A.96-07-025 open for routine processing.

The first amendment to the application changed the partnership to Antonio Luna and Jeffrey Rhodes, doing business as East Bay Airporter, seeking authority to operate as a passenger stage corporation between points in San Francisco and certain parts of Alameda and Contra Costa Counties and the Oakland and San Francisco International Airports, providing on-call, door-to-door service 24 hours a day, seven days a week. Fares ranging from \$12 between Emeryville and Oakland International Airport, to \$59 between Livermore and San Francisco International Airport are reasonable.

Applicants also propose to provide scheduled service between Berkeley, Emeryville, and Oakland and the Oakland International Airport. The proposed one-way fares of \$10 for adults and \$8 for children 5 to 15 years of age, with children 4 years and under free when accompanied by an adult, are reasonable.

Applicants propose to operate five vans of 1992-to-1996 vintage and with 7- to 10-passenger capacity.

The unaudited balance sheet attached to the application indicates assets and net worth of \$23,832.65, with no liabilities.

Notice of filing of the application appeared in the Commission's Daily Calendar on July 24, 1996. Applicants notified Oakland and San Francisco International Airports and the affected cities and governmental entities. No protests have been received; therefore, a hearing is not necessary. Rail Safety and Carriers

Division staff has indicated no objection to granting the authority requested in the amended application.

As noted in the application, the availability of the proposed service should benefit the environment and the public by the resultant reduction of private vehicles on the road.

Findings of Fact

1. Applicants served a Notice of Application by mail upon each public transit operator operating in the territory applicant seeks to serve.

2. Notice of filing of the application appeared in the Commission's Daily Transportation Calendar on July 24, 1996.

3. No protests have been filed.

4. No protest to the application has been received from any public transit operator serving the territory applicant proposes to serve.

5. Applicants have the financial resources to perform the proposed services.

6. It can be seen with certainty that there is no possibility that the proposed service will have a significant adverse impact on the environment.

7. A public hearing is not necessary.

Conclusions of Law

1. Public convenience and necessity have been demonstrated and the application should be granted as set forth in the following order.

2. This order should be effective on the date signed because public convenience and necessity require prompt commencement of the proposed service.

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 features of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Antonio Luna and Jeffrey Rhodes, a partnership, doing business as East Bay Airporter, authorizing them to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, between the points and over the routes set forth in Appendix PSC-10812, to transport persons and baggage.

2. Applicants shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in their tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

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

4. Applicants are authorized to begin operations on the date that the Executive Director mails a notice to applicants that their evidence of insurance is on file with the Commission and that the

California Highway Patrol has approved the use of applicants' vehicles for service.

5. Applicants shall comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.

6. The application is granted as set forth above.

7. Application 96-07-025 is closed.

This order is effective today.

Dated May 21, 1997, at Sacramento, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

T/MM

Appendix PSC-10812

Antonio Luna
and Jeffrey Rhodes
(a partnership)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-10812

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.

Issued under authority of Decision 97-05-083,
dated May 21, 1997, of the Public Utilities Commission of
the State of California in Application 96-07-025.

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Issued by California Public Utilities Commission.

Decision 97-05-083, Application 96-07-025.

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

Antonio Luna and Jeffrey Rhodes, a partnership, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage between points over and along the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When route description is 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 and timetables shall show the conditions under which each authorized on-call service will be rendered.
- c. Scheduled service will be operated only at the designated service points listed in Route 2 of Section III. 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.
- d. No passengers shall be transported except those having a point of origin or destination at either OAK or SFO.
- e. 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.

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SECTION II. SERVICE AREA.

- A. All points within the geographical limits of the City and County of San Francisco and parts of the Counties of Alameda and Contra Costa that are west of Interstate Highway 680 and the Cities of Walnut Creek, Danville, and San Ramon.
- B. San Francisco International Airport (SFO)
Oakland International Airport (OAK)

SECTION III. ROUTE DESCRIPTION.

On-Call Service

Route 1 - San Francisco, Alameda/Contra Costa - SFO/OAK

Commencing from any point as described in Section IIA, then over the most convenient streets, expressways, and highways to the airports, as described in Section IIB.

SCHEDULED SERVICE

Route 2 - HOTELS-OAK

Commencing from OAK, then over the most convenient streets, expressways, and highways to the following hotels;

Claremont Hotel, 41 Tunnel Road, Berkeley
Durant Hotel, 2600 Durant Avenue, Berkeley
Shattuck Hotel, 2086 Alston Way, Berkeley
Berkeley Hotel, 920 University Avenue, Berkeley
Marriott Inn, 200 Marina Boulevard, Berkeley
Holiday Inn, 1800 Powell Street, Emeryville
Hyatt Regency Hotel, Broadway, Oakland

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