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Decision 97-06-010 June 11, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the matter of application of the Foothills Flyer Inc. to establish a Zone of Rate Freedom (ZORF) for its airport passenger fares between its authorized service areas in Placer and Nevada Counties, to and from the Sacramento Airport.

Application 96-08-048  
(Filed August 22, 1996)

Jeffrey H. Gilliland, for Foothills Flyer, applicant.  
Mitch Matsumura, for Rail Safety and Carriers Division.

OPINION

Foothills Flyer, Inc. (applicant), a corporation, is authorized as a passenger stage corporation (PSC-5812) to operate an on-call service between Sacramento Metropolitan Airport (SMA), Sacramento (SACTO), Roseville (ROSVLE), and Colfax (COLFX) Amtrak stations, on the one hand, and points and places in the Counties of Placer and Nevada, on the other hand. This authority was granted by Decision (D.) 89-07-051, in Application 89-05-054.

Applicant requests authority pursuant to Public Utilities (PU) Code § 454.2 to establish a zone of rate freedom (ZORF) and be exempted from the long- and short-haul provisions of PU Code § 460.

Notice of filing of the application appeared in the Commission's Daily Calendar on August 26, 1996, and no protests were received. However, Rail Safety and Carriers Division requested that the matter be set for hearing to determine whether applicant is operating in competition with another substantially similar passenger stage transportation service or competitive passenger transportation service from any other means of transportation (PU Code § 454.2.)

A public hearing was held on February 3, 1997 in Sacramento. Jeffrey H. Gilliland, President of applicant, testified and was questioned by staff of the Rail Safety and Carriers Division. Upon receipt of a staff recommendation, the matter was submitted for decision on February 24, 1997.

#### **Staff Recommendation**

At the conclusion of the public hearing in this matter, the Rail Safety and Carriers Division stated that applicant, in its opinion, was operating in a competitive environment with respect to its transportation service into and out of Sacramento Municipal Airport, as required by PU Code § 454.2. Its written recommendation for approval of the application follows:

"Applicant testified that it wants to establish a zone of rate freedom (ZORF) between its service area in Placer and Nevada Counties and Sacramento Metropolitan Airport (SMA) because its fares are \$10-\$14 higher than that of SuperShuttle of San Francisco. Applicant said it competes with California Aero Company, a limousine operator, taxis, and SuperShuttle of San Francisco (SuperShuttle). SuperShuttle is the exclusive authorized airport transportation provider granted by SMA that allows only them to transport passengers from SMA with or without reservation to any points within the Sacramento Valley including the service territory of the applicant.

"SuperShuttle and certain taxis are also authorized to advertise its service within the premises of the SMA. The pick-up point for SuperShuttle is conveniently located for its customers. Applicant is not authorized to advertise its service and its pickup point is not within the same area as SuperShuttle. Applicant is only authorized to pick up passengers who have made previous arrangements or reservation.

"The staff recommends that the applicant be granted a ZORF of \$10 below and \$20 above its present fares as authorized under Section 454.2 of the PUC Code. Applicant competes with California Aero, limousine operators, and taxis. Applicant does not have the same access and agreement as those given to SuperShuttle by SMA and is prevented from competing with SuperShuttle on SMA premises. Applicant is placed in a position of competitive disadvantage, vis a vis SuperShuttle, by SMA."

In addition to the requested ZORF, applicant requests to be relieved of the long- and short-haul provisions of PU Code § 460. In adjusting its fares through the implementation of the proposed ZORF, applicant may offer a lower fare for a longer distance than for a shorter distance, absent the filing of an additional application. In such instances, applicant desires to attract ridership between SMA and a particular point or place or be competitive with other carriers, including charter-party carriers. We will grant the requested further authority.

#### **Comments**

Pursuant to the Commission's Rules of Practice and Procedure, the proposed decision of the assigned administrative law judge for this proceeding was filed with the Commission and mailed to the parties on April 28, 1997.

No comments have been received.

#### **Findings of Fact**

1. Applicant is a passenger stage corporation authorized to transport passengers and their baggage on an on-call basis between SMA, SACTO, ROSVLE, and COLFX, on the one hand, and points and places in the Counties of Placer and Nevada, on the other hand.
2. Applicant requests authority for a ZORF between its service points of \$10 below and \$20 above its existing fares.
3. Applicant competes with California Aero, SuperShuttle, charter-party carriers, taxi cabs, and limousines, in its operations.
4. Through the implementation of the ZORF, applicant may offer a lower fare for a longer distance than for a shorter distance that may conflict with PU Code § 460. Applicant should be relieved from such conflict and be exempted from the long- and short-haul provisions of PU Code § 460.
5. No protests to the application have been filed.

**Conclusions of Law**

1. The application for ZORF should be granted.
2. Before applicant changes fares under the ZORF authorized below, applicant should give the Commission 10 days' notice.
3. The filing of ZORF fares should be accompanied by a tariff amendment showing between each service point the high and low ends of the ZORF and the then currently effective fare.
4. In order to make the proposed fare changes available as soon as possible, the following order should be effective on the date of this decision.

**O R D E R**

**IT IS ORDERED that:**

1. Foothills Flyers, Inc., a corporation (applicant), is authorized under Public Utilities (PU) Code § 454.2 to establish Zone of Rate Freedom (ZORF) fares of \$10 below and \$20 above its present authorized fares between its authorized points of service.
2. Applicant may file a ZORF tariff in accordance with this application on not less than 10 days' notice to the Commission and to the public, subject to Commission approval. The ZORF shall expire unless exercised within 60 days after the effective date of this order.
3. Applicant 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 between each service points the authorized maximum and minimum fares and the fare to be charged.
4. Applicant is exempted from the long- and short-haul provisions of PU Code § 460 in setting the authorized ZORF fares.
5. In addition to posting and filing tariffs, applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be

posted at least five days before the effective date of the fare changes and shall remain posted for at least 30 days.

6. The application is granted as set forth above.
7. This proceeding is closed.

This order is effective today.

Dated June 11, 1997, at San Francisco, California.

P. GREGORY CONLON  
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners