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Decision 97-06-078 June 25, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the application of Rose Transportation Of Santa Barbara "A California Corporation" dba Santa Barbara Shuttle for authority to operate as a passenger stage between certain points in Santa Barbara area on one hand and Lax Los Angeles International Airport on the other hand.

Application 96-10-025  
(Filed October 15, 1996)

**ORIGINAL**

T. Todd Thompson and John R. De Loreto, Attorneys at Law,  
and Samir I. Al-Khattari, for Rose Transportation, applicant.  
Eric Onnen, for Santa Barbara Airbus, protestant.  
John Morgan, for Rail Safety and Carriers Division, Policy  
Section, interested party.

**O P I N I O N**

Rose Transportation of Santa Barbara (applicant), doing business as Santa Barbara Shuttle, seeks a Certificate of Public Convenience and Necessity (CPCN) under Public Utilities Code § 1031, to operate an on-call scheduled service to transport persons and baggage between various points in the Santa Barbara area and the Los Angeles International Airport (LAX).

The application was protested by Santa Barbara Airbus (Airbus or protestant). Protestant recommends that the requested CPCN not be granted or in the alternative a hearing be held.

**Hearing**

An evidentiary hearing was held on March 7, 1997, in Santa Barbara before Administrative Law Judge (ALJ) Garde. The matter was submitted upon receipt of the transcript on April 18, 1997.

**Evidence**

Samir Al-Khattari, President of Rose Transportation, Peter Robertson, an expert on requirements of the Americans with Disabilities Act (ADA), and Gary Gray, certified public accountant, provided testimony for applicant.<sup>1</sup>

Eric Onnen, Chief Executive Officer for Airbus, provided testimony for protestant.

**Applicant's Position**

Applicant, states that it has operated Rose Cab Company and Ocean Cities Limousine Service for several years and that it has acquired the needed experience in transportation of passengers. According to applicant, its experience in operating the taxi and limousine services has provided it the technical and business qualifications to operate the proposed service.

Applicant plans to use three new 15-passenger maxi vans to provide the proposed service to LAX. One of the three vans will be equipped with a lift for passengers in wheelchairs.

Applicant proposes to provide an on-call service to and from various locations, including residences and offices, in the Santa Barbara area and LAX.

Robertson testified that applicant is proposing a shuttle service which is not currently available to individuals with disabilities. Applicant's use of a van equipped with a lift for wheelchairs will enable individuals with disabilities in the Santa Barbara area to have the same access to transportation to LAX as other members of the public. ADA requires that individuals with disabilities are entitled to the same access to transportation facilities as members of the general public. According to Robertson, the current provider of shuttle service between Santa Barbara and LAX, protestant, does not provide equal access to individuals with disabilities.

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<sup>1</sup> In addition, applicant provided letters of recommendation from American Airlines, Ramada Hotel, and the Four Seasons Biltmore Hotel which were marked as Reference Items A, B, and C, respectively.

Robertson stated that there are approximately 38,250 residents with disabilities who could benefit from applicant's service.

Gray testified that applicant has access to approximately \$80,000 in liquid assets and approximately \$50,000 in commercial credit.

Applicant can utilize the maintenance facilities of its taxi and limousine operation to maintain the vans used in the proposed service to LAX. Gray estimates that there will be a minimal increase in operating expenses to service the vans.

Based on the above, Gray believes that applicant has the financial ability to establish and provide the proposed service.

#### **Protestant's Position**

Protestant currently provides scheduled service between Santa Barbara and LAX using 47-passenger motor coaches offering 14 trips each day.

Protestant states that in the last 16 years, five other carriers have attempted to provide service from Santa Barbara to LAX. They all went out of business. Protestant disagrees with the passenger load and growth projections made by applicant and believes that applicant too will join the ranks of the carriers which went out of business.

Protestant also disagrees with applicant's estimates of operating expenses required to provide the proposed service. According to protestant's estimate, applicant's operations will reach a break-even point at the end of two years. However, protestant believes that during the first two years of operations, applicant will lose in excess of \$375,000. Protestant argues that with applicant's current assets, it will not be possible for applicant to stay in business.

Protestant insists that the service being provided by it is adequate. While protestant's coaches do not have vertical lifts for passengers in wheelchairs, protestant claims that its employees assist individuals with handicaps to board its coaches. Protestant asserts that there is no necessity for an additional service provider and that applicant is duplicating protestant's service, not complementing it.

### Discussion

In Decision 82-07-084 (9 CPUC2d 463, 464), the Commission enumerated seven factors which should be examined in determining whether public convenience and necessity indicate that a certificate may be granted; they are:

1. Public requirement for the service;
2. Adequacy of existing service;
3. Ability of the proposed service to complement existing service;
4. Technical feasibility of the proposed service;
5. Technical qualifications of applicant;
6. Financial ability of applicant; and
7. Economic feasibility of the proposed service.

While these elements may be significant and appropriate for Commission consideration in determining public convenience and necessity, not all need be considered in every proceeding. We believe that applicant has provided adequate evidence to indicate that the requested CPCN be granted.

Scheduled service between the Santa Barbara area and LAX is currently being provided only by protestant on a terminal-to-terminal basis rather than door-to-door basis. Applicant, on the other hand, proposes to provide the same service on a door-to-door basis. In addition, applicant proposes to use a van with a vertical lift which will allow easy access to individuals with handicap. Applicant proposes to provide a service which is different than that now being provided by protestant. Applicant's proposed service is needed and will complement the existing service.

While applicant does not currently provide a Commission-authorized passenger stage service, applicant has several years of experience in the transportation business. Applicant has provided satisfactory service to its customers as evident from the letters of recommendation from American Airlines and the two hotels. Applicant is qualified to provide the proposed service.

According to the testimony provided by Gray, a certified public accountant, applicant has liquid assets of \$80,000 and has access to \$50,000 in commercial credit. By utilizing the maintenance facilities of its taxi and limousine services, applicant will be

able to minimize its operating expenses. Applicant has the financial ability to provide the service.

Our primary function with respect to transportation operations is to protect the best interest of the public. The proposed service does not overlap the service currently being provided by protestant. It enhances and complements protestant's service when we consider the availability of a door-to-door service to the elderly and the handicapped. We will grant the requested authority.

#### **Comments on ALJ's Proposed Decision**

ALJ's proposed decision was filed and mailed to the parties on May 21, 1997. Protestant has filed comments on the proposed decision. Based on our review of the comments, we believe that no changes to the decision are necessary. Accordingly, we will issue the decision as proposed.

#### **Findings of Fact**

1. Applicant requests authority to provide door-to-door shuttle service between the Santa Barbara area and LAX.
2. Protestant provides a terminal-to-terminal service between the Santa Barbara area and LAX.
3. Applicant's proposed service will not duplicate the existing service.
4. Applicant has the ability and financial resources to provide the proposed service.
5. Public convenience and necessity require the issuance of a certificate to perform the service.
6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

#### **Conclusion of Law**

The application should be granted.

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**

**IT IS ORDERED that:**

1. A certificate of public convenience and necessity is granted to Rose Transportation of Santa Barbara (applicant), doing business as Santa Barbara Shuttle, authorizing it to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, to transport persons and baggage, between the points and over the route set forth in Appendix PSC-10755.
2. Applicant 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 his tariffs and timetables when service will start; allow at least ten days' notice to the Commission; and make timetables and tariffs effective ten 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, applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.
4. Applicant is authorized to begin operations on the date that the Executive Director mails a notice to applicant that his evidence of insurance is on file with the Commission and that the California Highway Patrol has approved the use of applicant's vehicles for service.
5. Applicant 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.

A.96-10-025 ALJ/AVG/wav

7. This proceeding is closed.

This order becomes effective 30 days from today.

Dated June 25, 1997, at San Francisco, California.

P. GREGORY CONLON  
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

T/MM

Appendix PSC-10755

Rose Transportation  
of Santa Barbara  
(a corporation)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-10755

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

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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.

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Issued under authority of Decision 97-06-078,  
dated June 25, 1997, of the Public Utilities Commission of the  
State of California in Application 96-10-025.



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Issued by California Public Utilities Commission.

Decision 97-06-078, Application 96-10-025.

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

Rose Transportation of Santa Barbara, 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 call basis, between the points described in Section II, on the one hand, and Los Angeles International Airport (LAX), 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 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 and timetables shall show the conditions under which each authorized on-call service will be rendered.
- c. No passengers shall be transported except those having either a point of origin or destination at LAX.
- 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.

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T/MM

Appendix PSC-10755

Rose Transportation  
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**SECTION II. SERVICE AREA.**

The city or community of Santa Barbara and Goleta that are within the geographical limits of the U.S. Postal Zip Codes of 93101 through 93117, inclusively.

**SECTION III. ROUTE DESCRIPTION.**

Commencing from any of the points or places, as described in Section II, then over the most convenient streets and highways to LAX.

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