

Decision 97-08-053 August 1, 1997

AUG 05 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Ramon Valley Airporter Express, Inc. (PSC 1362, TCP 854-B) and William S. and Jennifer L. Wheeler, dba Black Tie Airport Express (PSC 4389, TCP 4389-B) for approval to transfer all its authorities into one new entity, a Limited Liability Company (LLC), to be called Black Tie Airport Express, LLC, pursuant to the provisions of Public Utilities Code § 851 et seq.

ORIGINAL

Application 97-03-048
(Filed March 28, 1997)

OPINION

Summary

The decision authorizes San Ramon Valley Airporter Express, Inc. (San Ramon) and William S. and Jennifer L. Wheeler, doing business as (dba) Black Tie Airport Express (Black Tie) to transfer their respective operating authority as a passenger stage corporation to a new entity, a limited liability company, to be called Black Tie Airport Express, LLC (transferee), pursuant to Public Utilities (PU) Code § 851 et seq. San Ramon and Black Tie are jointly referred to as applicants.

Background

San Ramon has a certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC-1362). It provides scheduled service carrying passengers and baggage between the cities of Danville, San Ramon, Dublin, Pleasanton, Livermore, and Castro Valley, on the one hand, and the Oakland International Airport (OAK) and the San Francisco International Airport (SFO), on the other hand.

Black Tie has a CPCN to operate as a passenger stage corporation (PSC- 4389). It provides scheduled service carrying passengers and baggage between the cities of Concord, Walnut Creek, Lafayette, and Orinda, on the one hand, and OAK and SFO, on the other hand.

Through this application, applicants seek approval to combine their operations by combining their assets and operating authority of their respective companies into a new limited liability company, transferee, under § 17001 of the California Corporations Code. Transferee's articles of incorporation are attached as Exhibit A to the application. Transferee will provide the same service as being provided by applicants.

Applicants state that by combining the assets of the two companies they will form a stronger company with greater financial strength capable of providing better service. Applicants believe that through economies of scale and benefit of combined customer base, transferee will be able to expand its service not only in its current service area but also to growing service areas in the East Bay.

Comments on the Proposed Merger

Notice of the application appeared on the Commission's Daily Calendar on April 1, 1997.

No comments or protests on the proposed merger have been filed.

Discussion

Since transferee proposes to provide the same service as that being provided by applicants, the public will not be adversely affected by the merger. Also, because San Ramon and Black Tie currently serve different areas, the merger will not impact other existing carriers. The combined assets of applicants will provide transferee the ability and financial resources to perform the service being currently provided. We will authorize the proposed merger.

Related Matter

We take official notice of D.97-08-001 in A.96-08-054 and A.97-05-017 which is being issued simultaneously with this order. D.97-08-053 extends Black Tie's authority to transport passengers between the Cities of Dublin, Pleasanton, Livermore, San Ramon, Danville, Tracy, Montera, on the one hand, and OAK and SFO, on the other hand.

Findings of Fact

1. The merger of applicants is in the best interest of the public.
2. The public will not be adversely affected by granting applicants the authority to merge.
3. Transferee will have the ability and financial resources to perform the service currently being provided.

Conclusion of Law

The proposed merger is in the public interest and should be authorized. A public hearing is not necessary.

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.

ORDER

IT IS ORDERED that:

1. Within 180 days from the effective date of this order, San Ramon Valley Airporter Express, Inc. and William S. and Jennifer L. Wheeler, doing business as Black Tie Airport Express (applicants) may transfer their respective operating rights and assets specified in the application to a newly formed limited liability company to be called Black Tie Airport Express, LLC (transferee).
2. Transferee shall:
 - a. File with the Rail Safety and Carriers Division written acceptance of the certificate and a copy of the billing of sale or other transfer document within 30 days after transfer.
 - b. Amend or reissue applicants' 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 (CHP) safety rules.
- d. File an annual report of applicants' operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Comply with the controlled substance and alcohol testing certification program pursuant to Public Utilities (PU) Code § 1032.1 and General Order Series 158.
- g. Comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.

3. If the transfer is completed, on the effective date of transferee's tariffs, a certificate of public convenience and necessity (CPCN) is granted to transferee authorizing it to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-11227, to transport persons, baggage, and/or express.

4. Operations may begin on the date that the Executive Director mails a notice to transferee that its evidence of insurance is on file with the Commission and that the CHP has approved the use of transferee's vehicles and terminal for service.

5. The CPCNs granted to applicants are revoked on the effective date of transferee's tariffs.

This order is effective today.

Dated August 1, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUÉ

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

Appendix PSC-11227

Black Tie
Airport Express, LLC
(a limited liability company)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-11227

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
San Ramon Valley Express, Inc., a corporation,
by D.88-07-012,
and
William S. Wheeler and Jennifer L. Wheeler, a partnership,
by D.94-07-055, as amended.

Issued under authority of Decision 97-08-053,
dated August 1, 1997, of the Public Utilities Commission of the
State of California in Application 97-03-048.

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Issued by California Public Utilities Commission.

Decision 97-08-053, Application 97-03-048.

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

This certificate supersedes all passenger stage operative authority granted to San Ramon Valley, Express, Inc., a corporation., and William S. Wheeler and Jennifer L. Wheeler, a partnership.

Black Tie Airport Express, LLC, a limited liability company, 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 on a scheduled service, between the points described in Sections IIA and IIB, on the one hand, and Section IIC, on the other hand, over and along the routes 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 a route description is given in one direction, they apply to operation in either direction unless otherwise indicated.
- b. Service will be operated only at the designated service points listed in Sections IIA and IIB. All of the stop points shall be described in the timetable filed with the Commission.
- c. Service shall be operated on a scheduled basis. Such schedules shall be the timetable filed with the Commission.
- d. No passengers shall be transported except those having a point of origin or destination named in Section IIC.
- 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 AREAS.

- A. The following hotels or points described below, unless otherwise specified:

Sheraton Hotel, Concord Avenue and John Glenn Drive, Concord
Holiday Inn, Diamond Blvd and Burnett Avenue, Concord;
Concord Hilton, Diamond Blvd and Willow Way, Concord;
Embassy Suites, Treat Blvd and Oak Road, Walnut Creek;
Holiday Inn, 2730 North Main Street, Walnut Creek;
Marriott Hotel, Main Street and Parkside Drive, Walnut Creek;
Lafayette Park Hotel, 3287 Mt. Diablo Blvd, Lafayette;
Lafayette Shopping Center, Mt. Diablo Blvd and First Street, Lafayette;
Orinda Village, Camino Pablo and Brookwood Road, Orinda

- B. The following cities described below, unless otherwise specified:

- (1) Contra Costa County
 - (a) Danville, San Ramon, Pleasanton, Dublin, and Livermore.
 - (b) San Ramon
- (2) Alameda County
 - (a) Castro Valley, Dublin, and Pleasanton.
- (3) San Joaquin County
 - (a) Tracy and Manteca

- C. San Francisco International Airport (SFO)
Oakland International Airport (OAK)

SECTION II. ROUTE DESCRIPTIONS.

Route 1 - Hotels - SFO

Commencing from the Sheraton Hotel at Concord Avenue and John Glenn Drive in Concord then proceeding along the most appropriate streets and highways to the hotels or points listed in Section IIA, and to SFO.

Route 2 - Hotels - OAK

Commencing from the Sheraton Hotel at Concord Avenue and John Glenn Drive in Concord then proceeding along the most appropriate streets and highways to the hotels or points listed in Section IIA, and to OAK.

Route 3 - SFO - SAN JOAQUIN

Commencing from SFO, then proceeding along the most appropriate streets and highways to the cities described in Sections IIB(1)(a) and IIB(3)(a).

Route 4 - OAK - SAN JOAQUIN

Commencing from OAK, then proceeding along the most appropriate streets and highways to the cities described in Sections IIB(1)(a) and IIB(3)(a).

Route 5 - SFO - ALAMEDA

Commencing from SFO, then proceeding along the most appropriate streets and highways to the cities described in Sections IIB(1)(b) and IIB(2)(a).

Route 6 - OAK - ALAMEDA

Commencing from OAK, then proceeding along the most appropriate streets and highways to the cities described in Sections IIB(1)(b) and IIB(2)(a).

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