

Decision 98-05-051 May 21, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Quick Silver Shuttle Service for authority to operate as a Passenger Stage Corporation between points within San Diego county and San Diego Lindbergh Field International Airport.

Application 97-10-025
(Filed October 6, 1997)

ORIGINAL

O P I N I O N

Edward A. and Kimberly A. Hanline (applicants), doing business as Quick Silver Shuttle Service, request authority pursuant to Public Utilities (PU) Code § 1031 et seq. to establish and operate as a passenger stage corporation transporting passengers and their baggage between points and places in the counties of San Diego on the one hand, and San Diego Lindbergh Field International Airport, on the other hand.

Applicants propose to perform an on-call service 24 hours a day, seven days a week. Applicant proposes to operate the service with a seven passenger van to be supplemented upon certification with four more 1997 vans. Applicants intend to add to this fleet of five vans as demand necessitates. Applicants, both husband and wife, will work as drivers.

Applicants propose to charge rates varying per length of trip from \$10 to \$75 as shown in Exhibit B attached to the application. The proposed rates are reasonable.

Applicants' unaudited financial statement, attached to the application as Exhibit F, indicates total assets of \$85,000.00.

The surrounding community supports applicants' business proposal and indicate they will use this service.

Notice of the filing of the application appeared on the Commission's Daily Calendar on October 16, 1997. The San Diego Unified Port District (Port) tendered a Protest on October 30, 1997. Applicant challenged the timeliness of the protest since the proof of service was defective and not corrected until November 19. However, in a Prehearing Conference by telephone on December 23, 1997, Administrative Law Judge Bennett ruled the protest was timely since the procedures for correcting the error met the requirements of Rule 8.11(g) and the protest substantially complied with Rules 2 through 8. Pursuant to Rule 8.11(g) the Protest was accepted for filing on the date tendered which was within the 30-day protest period.

The Port's protest alleges that applicant has no authority to enter the airport and none is available since there is a moratorium on airport permits. Therefore, the Port argues that granting the certificate will create a violation of General Order 158, which requires carriers to comply with airport authority regulation. Port alleges applicants willfully and knowingly violate Port authority regulations by its failure to obtain a permit before entering port property.

At the Prehearing Conference, applicants and Port discussed amendments to the application to avoid the Protest by the Port. Subsequently, on February 5, 1998, Port withdrew its Protest based upon a written agreement by applicant to only drop off, not pick up, passengers at the airport.

On December 26, 1997, the Commission's Rail Safety/Carriers Division-Licensing Branch (staff) reviewed the application and Protest and noted several inconsistencies:

- (1) the service points are described in Exhibit A attached to the application as *all points* in San Diego County, including "home-to-work" and transportation between hotels and various attractions, whereas the application caption indicates service to and from the airport. Staff believes this makes inadequate the notice to the public

of the caption in the application which appeared on the Commission Daily Calendar;

- (2) the proposed fares include only those from points to the airport;
- (3) portions of the application refer to a timetable, whereas the service is actually "on-call" with no set schedule;
- (4) the application does not include documentation to support future van purchases; and,
- (5) the unaudited, undated financial statement fails to include liabilities.

Staff proposes to deny the application unless applicants reduce the proposed service area to reflect their current level of operations and financing, with authority to increase the size of the service territory as these abilities increase in the future.

On January 16, 1998, staff revised its opinion based upon applicants' revisions to its application. Applicants now request to provide service between points within and between the City of San Diego, the City of Carlsbad, and the City of Coronado. Applicants submit the proposed fares between these cities. Staff supports the granting of the revised application including the fares for trips to these cities.

Findings of Fact

1. Applicants, doing business as Quick Silver Shuttle Service, initially requested authority to operate an "on-call" passenger stage service to transport passengers and their baggage between the various points in City of San Diego on one hand, and the San Diego Lindbergh Field International Airport, on the other hand.
2. Notice of the application was published in the Commission Daily Calendar on October 16, 1997.
3. The Port timely filed a Protest to the application on October 30, 1997.

4. The Commission Rail Safety/Carriers Division-License Branch indicated in a letter to applicants on December 23, 1997 that there were numerous deficiencies in the application and that the service territory should be reduced.

5. On January 16, 1998, applicants revised its application from a service territory of San Diego County, including the airport, to one between points in the Cities of San Diego, Carlsbad and Coronado.

6. Applicants and protestant entered into a settlement agreement resulting in protestant withdrawing its Protest on February 5, 1998.

7. After reviewing applicants' revisions to the application, the Rail Safety/Carriers Division-License Branch recommended that the revised application be granted.

8. Public convenience and necessity require the issuance of a certificate to perform the proposed service.

9. No protests to the revised application have been submitted.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. A public hearing is not necessary.

2. Public convenience and necessity have been demonstrated and the application should be granted.

3. Since all objections to the granting of the application have been resolved and applicants desire to start-up their service prior to the tourist season, this decision should be effective on the date it is signed.

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 Edward A. and Kimberly A. Hanline (applicants), doing business as Quick Silver Shuttle, authorizing them to operate as a passenger stage corporation, as defined in Public Utilities (PU) Code § 226, to transport persons between the points and over the routes set forth in Appendix PSC-11706, subject to the conditions contained in the following paragraphs.
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 the 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 (CHP) safety rules.
 - e. Comply with the controlled substance and alcohol testing certification program pursuant to PU Code § 1032.1 and General Order Series 158.
 - f. Maintain accounting records in conformity with the Uniform System of Accounts.
 - g. Remit to the Commission the Transportation Reimbursement Fee required by PU Code § 403 when notified by mail to do so.
 - h. Comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
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 CHP has approved the use of applicants' vehicles for service.

5. The revised application is granted as set forth above.

6. Application 97-10-025 is closed.

This order is effective today.

Dated May 21, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

T/MM

Appendix PSC-11706

Edward A. Hanline
and Kimberly A. Hanline
(husband and wife)

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-11706

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 98-05-051,
dated May 21, 1998, of the Public Utilities Commission of the State of California in
Application 97-10-025.

T/MM

Appendix PSC-11706

Edward A. Hanline
and Kimberly A. Hanline
(husband and wife)

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Issued by California Public Utilities Commission.

Decision 98-05-051, Application 97-10-025.

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

Edward A. Hanline and Kimberly A. Hanline, husband and wife, 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 an "on-call" basis, between points and places as described in Section II and points and places within the incorporated city limits of San Diego, over and along the route 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. No passengers shall be transported except those having a point of origin or destination as described in Section II.
- 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-11706

Edward A. Hanline
and Kimberly A. Hanline
(husband and wife)

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SECTION II. SERVICE AREA.

Within the incorporated city limits of Coronado and Carlsbad.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point as described in Section II, then over the most convenient streets, expressways, and highways to any points and places within the incorporated city limits of San Diego.

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