

Decision 98-11-056 November 19, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Jeffrey Rhodes and Antonio Luna, a partnership, dba East Bay Airporter to transfer their PSC-10812 Certificate to Jeffrey Rhodes, an individual, dba East Bay Airporter.

Application 98-08-028
(Filed August 20, 1998)

OPINION

ORIGINAL

Summary

The Commission authorizes Jeffrey Rhodes and Antonio Luna, a partnership doing business as East Bay Airporter, to transfer its passenger stage corporation certificate (PSC-10812) to Jeffrey Rhodes, an individual, doing business as East Bay Airporter, pursuant to Public Utilities (PU) Code § 851.

Discussion

Jeffrey Rhodes and Antonio Luna, a partnership (transferor) doing business as East Bay Airporter, requests authority to transfer its passenger stage corporation certificate (PSC-10812) to Jeffrey Rhodes (transferee), an individual, doing business as East Bay Airporter, pursuant to PU Code § 851 et seq.¹

Under PSC-10812, the Commission has authorized transferor to provide an on-call, share ride service between all points within the geographic limits of the

¹ PU Code § 1036(b) also requires a fee of \$300.00 to accompany any application for authority to transfer a passenger stage certificate. Applicant did not include the fee with his application. However, in a letter dated October 30, 1998, applicant's attorney submitted the required filing fee.

City and County of San Francisco and the portions of Alameda and Contra Costa Counties that are west of Interstate Highway 680 and the Cities of Walnut Creek, Danville, and San Ramon, on the one hand, and San Francisco and Oakland International Airports, on the other hand. Additionally, PSC-10812 authorizes transferor to provide a scheduled service between hotels located in Berkeley, Emeryville, and Oakland and the Oakland International Airport. The Oakland Airport has suspended all local scheduled passenger stage corporation operations for an unknown period.²

Transferor states that the reason for the requested transfer is that partner Antonio Luna wishes to withdraw from the partnership and pursue other interests. Transferor represents that Mr. Luna has obtained other employment and has insufficient time to actively participate in the operations of East Bay Airporter. Further, the application states that Mr. Luna has not actively participated in the operations of East Bay Airporter for at least the past six months.³

Transferor alleges that the transfer of PSC-10812 will have no effect upon the service being provided to the general public. Additionally, the application

² Consequently, on June 16, 1997, transferor requested suspension of the service. On September 3, 1997, in Resolution TL-18809 the Commission granted transferor's request to suspend the scheduled service between hotels located in Berkeley, Emeryville, and Oakland and the Oakland International Airport.

³ The application was signed on July 10, 1998, by applicants Mr. Luna and Mr. Rhodes. Thus, it appears that the six-month period referred to in the application began in January 1998. Although signed on July 10, the application was not submitted to the Commission until August 20, 1998. The application first appeared on the Daily Calendar on August 25, 1998.

states that for over the past six months,⁴ Mr. Rhodes has been responsible for and in full control and management of East Bay Airporter.

The application states that no consideration is to be paid for the transfer of the authority to Jeffrey Rhodes as an individual. The application contains transferor's balance sheet and shows a net worth of \$29,000 as of August 1, 1998.

Since Mr. Rhodes will continue the operation of East Bay Airporter, the transfer should have no significant adverse effect upon the environment of the area being served.

Notice of filing of the application appeared in the Commission's Daily Calendar of August 25, 1998. In Resolution ALJ 176-2999 dated September 3, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given this status, public hearing is not necessary and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-2999.

Findings of Fact

1. Jeffrey Rhodes and Antonio Luna, a partnership, hold passenger stage corporation certificate PSC-10812.
2. Partner Antonio Luna seeks to withdraw from the partnership and pursue other interests.
3. Remaining partner, Jeffrey Rhodes, seeks to continue the transportation business in an individual capacity.

⁴ See footnote 2.

4. There will be no change in the operation of the business except for the withdrawal of Antonio Luna from the partnership and the change of business entity from a partnership to a sole proprietor.

5. No protest to the application has been filed.

6. Granting this application should have no adverse impact on the environment or public interest.

Conclusions of Law

1. The proposed transfer should be authorized.
2. A public hearing is not required.
3. As this transfer is of an ongoing business, the order should be made effective on the date that it is signed.

O R D E R

IT IS ORDERED that:

1. By December 1, 1998, Antonio Luna and Jeffrey John Rhodes (transferor), a partnership, may sell operative rights specified in the application to Jeffrey John Rhodes (transferee), an individual.
2. Transferee shall:
 - a. File a written acceptance of the certificate.
 - b. Amend or reissue transferors' 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. Comply with the controlled substance and alcohol testing certification program pursuant to Public Utilities (PU) Code § 1032.1 and General Order Series 158.
 - e. Maintain accounting records in conformity with the Uniform System of Accounts.

- f. Remit to the Commission the Transportation Reimbursement Fee required by PU § 403 when notified by mail to do so.
 - g. Comply with PU Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this State.
 - h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
3. If the sale is completed, on the effective date of the tariff a certificate of public convenience and necessity 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-11848, to transport persons and their baggage.
4. The certificate of public convenience and necessity granted by Decision 97-05-083 is revoked on the effective date of the tariffs filed by the transferor.
5. Before beginning service to any airport, transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property unless such operations are also authorized by the airport's governing body.
6. Transferee is authorized to begin operations on the date that the Rail Safety and Carriers Division 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 for service.
7. The certificate of public convenience and necessity to operate as a passenger state corporation (PSC-11848) granted herein expires, unless exercised by December 1, 1998.
8. The application is granted as set forth above.

9. This proceeding is closed.

This order is effective today.

Dated November 19, 1998, at San Francisco, California.

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

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-11848

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 the authority heretofore granted to Antonio Luna and Jeffrey Rhodes, a partnership, by D.97-05-083, as amended.

Issued under authority of Decision 98-11-056,
dated November 19, 1998, of the Public Utilities Commission of the State of California
in Application 98-08-028.

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Issued by California Public Utilities Commission.

Decision 98-11-056, Application 98-08-028.

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

This certificate supersedes all passenger stage operative authorities granted to Antonio Luna and Jeffrey Rhodes, a partnership.

Jefferey Rhodes, an individual, 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 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. 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 as described in Section IIB.
- 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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