

Decision 99-04-049 April 22, 1999

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Xpress Management Systems LLC to provide on-call door-to-door passenger stage service to the extent required to enter into concessionaire agreement with Los Angeles World Airport (LAX).

Application 98-09-001
(Filed September 2, 1998)

INTERIM OPINION

Summary

This decision grants interim passenger stage corporation (PSC) operating authority to Xpress Management Systems (Xpress) to provide on-call, door-to-door service to transport passengers and their baggage between points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties and Los Angeles International Airport (LAX).

Background

Xpress is a limited liability company comprised of five Commission-certificated passenger stage carriers: AA Shuttle, PSC-4414; Apollo-Soyuz Airport Passenger Service, PSC-8402; Mehrdad Hajimoradi and Behram Shahab, dba L.A. Xpress Airport Shuttle, PSC-5038 (L.A. Xpress); Metro Shuttle, Inc., dba Best Shuttle, PSC-5858; and Coast Shuttle, Inc., PSC-1335. Each member's service territory is different but all include providing service from points in Los Angeles and Orange Counties to LAX.¹

¹ In Resolution ALJ 176-3000 dated September 17, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings

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On September 2, 1998, Xpress filed an application seeking Commission authorization to provide service at LAX. Although each member of Xpress possesses Commission authorization, Xpress will exercise sufficient control over the members, in conformance with the requirements of LAX management, that the Commission staff initially determined that the Public Utilities Code mandated that Xpress also obtain PSC authority. Two other organizations also have similar contracts with LAX: Blue Van Joint Venture, which received its PSC in December, and Rideshare Port Management, which will receive its PSC certificate concurrently with this decision.

Several parties filed protests to the application, which was set for evidentiary hearing. The Protestants failed to file any written testimony which raised any factual issues of fitness of applicant. Protestants' sole issue was their assertion that the Public Utilities Code did not require organizations such as Xpress to obtain PSC authority.

The Commission staff also raised issues regarding whether L.A. Xpress was in compliance with Public Utilities Commission Transportation Reimbursement Account fee requirements. Staff and L.A. Xpress resolved this issue and filed a settlement agreement on February 18, 1999.

Subsequent to the filing of the application but prior to hearing, the Commission issued Decision 98-12-062 granting Blue Van Joint Venture PSC authority and adopting the reasoning behind Staff's initial determination that Xpress' operations required PSC authority. Thus, in a case with similar facts, the Commission rejected Protestants' theory.

were not necessary. As protests were filed, the assigned Commissioner determined that hearings were necessary.

At the evidentiary hearing on February 25, 1999, Protestants offered no additional facts which would call into question applicant's fitness. However, briefs will be filed by the parties so the record is not closed.

On March 3, 1999, Applicants filed a motion seeking interim authority and stating that LAX management requires that they begin offering service on April 1, 1999. Protestants filed a document which stated that they "object" to granting such authority but offered no basis for their objection.

Discussion

The record in this proceeding reveals that up to this point Protestants have not raised a substantive issue regarding the fitness of Xpress to provide this service. Indeed, each component member of Xpress is duly authorized to provide this very service. Nevertheless, the record is not yet closed in this proceeding so we are not prepared to grant final authority.

Xpress states that LAX requires it to begin service as early as April 1, 1999, and that its competitors, Blue Van and Rideshare, will do so. Xpress states that its business will be harmed by this delay, and that the public will suffer due to the limited service providers available.

Protestants offer no substantive arguments against granting interim authority.

Therefore, we will grant interim passenger stage service authority to Xpress. This grant of interim authority will in no way affect the outcome of the application at issue in this proceeding. We will issue a decision on the application after we have received and reviewed the entire record.

During their interim operations, Xpress' operations shall be limited to providing service to and from LAX and the counties indicated above. Rather than filing interim tariffs, Xpress is ordered to provide all service pursuant to the

rates, terms and conditions found in the tariffs of L.A. Xpress, so that all members of Xpress will charge customers the same rates.

Comments on Draft Decision

The draft decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules of Practice and Procedure. The applicant submitted comments supporting the decision and protestants submitted comments asserting that the Public Utility Code does not require applicant to obtain a PSC. The Board of Airport Commissioners of Los Angeles World Airports also submitted comments supporting the decision.

Findings of Fact

1. To date, Protestants have raised only legal issues regarding the jurisdiction of the Commission to issue a passenger stage corporation authority to Xpress; Protestants have not challenged Xpress' fitness.
2. Xpress states that it will suffer business losses if not allowed to commence service as soon as possible.
3. Each member of Xpress is authorized to provide PSC service to LAX.

Conclusions of Law

1. The public interest requires that interim PSC authority be granted to Xpress pending final disposition of this application.
2. Interim PSC authority should be granted.
3. This decision shall have no bearing on the outcome of this proceeding.

INTERIM ORDER

Therefore, **IT IS ORDERED** that:

1. Xpress Management Systems, LLC (Xpress), is granted an interim certificate of public convenience and necessity to operate as a passenger stage corporation between Los Angeles International Airport and all points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties.
2. Applicant shall:
 - a. Comply with General Order (GO) Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
 - b. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and GO Series 158.
 - c. Comply with Pub. Util. Code §§ 460.7 and 1043 relating to the workers' compensation laws of this state.
3. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.
4. Xpress shall operate pursuant to the tariffs of Mehrdad Hajimoradi and Behram Shahab, dba L.A. Xpress Airport Shuttle, PSC-5038 (L.A. Xpress).
5. L.A. Xpress shall include all revenue collected by Xpress' interim operations in its annual report and shall remit all required Public Utilities Commission Transportation Reimbursement Account fees for Xpress' interim operations.

6. Xpress shall comply fully with all applicable state and federal laws and Commission directives when exercising this interim authority.

This order is effective today.

Dated April 22, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEPPER
Commissioners