

Decision 99-04-050 April 22, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rideshare Port Management, L.L.C., dba Prime Time Shuttle, to provide on call door-to-door passenger stage service to the extent required to enter into a concessionaire agreement with Los Angeles International Airport.

ORIGINAL
Application 98-07048
(Filed July 13, 1998)

OPINION

Summary

This decision grants the application of Rideshare Port Management, L.L.C. dba Prime Time Shuttle (Rideshare or Applicant) for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC) between Los Angeles International Airport (LAX) and points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties. It also partially grants the applicant's request for relief from certain regulatory requirements.

Description of the Applicant

Rideshare is a limited liability company comprised of two members: David Regwan, an individual dba Prime Time Shuttle of Los Angeles, holder of passenger stage authority under PSC-5998, and AMRAT, Inc., a California corporation.¹ AMRAT's application to acquire Mr. Regwan's authority is

¹ At the time of application Rideshare was comprised of three members, each holding a PSC certificate: David Regwan, Good Life Transportation, Inc. dba Prime Time Shuttle of Palm Springs, and Universal Transportation Systems, Inc. dba Prime Time Shuttle of Pasadena/Inland Empire. Subsequent organizational changes resulted in the current membership composition.

currently pending before the Commission in A.97-09-031. Applicant states that Rideshare was formed for the sole purpose of responding to a Request for Proposal (RFP) issued by LAX for nonexclusive door-to-door shuttle van concessions. Rideshare has designated the president of AMRAT, Inc., as its managing partner.

Procedural Background

Notice of the application appeared in the Commission's Daily Calendar on July 27, 1998, and on August 6, 1998, the Commission issued ALJ Resolution 176-2998 in which it preliminarily categorized the proceeding as ratesetting and found that no hearing was required.

On August 26, 1998, protests were filed by: Airway Shuttle, Ace Shuttle, California Dream, 1-M Lucky Shuttle, Shuttle 2000, A-1 Prince Airport Shuttle, E-Shuttle, USA Shuttle, 3R Express, LAX Chequer Van, Inc., Quick Trip Airport Shuttle, Inc., and CABAC Inc. Universal Transportation Systems, Inc., also submitted a protest on August 28, 1998; a letter requesting withdrawal of the protest on September 28, 1998; and another letter dated October 25, 1998, requesting reinstatement of its protest.

On August 27, 1998, Commission staff filed its recommendations:

1. Rideshare shall at all times maintain on file with the Commission its current address and phone number, and current identification of the members of the Rideshare and all managers and officers of the Rideshare, and the complete current Operating Agreement of the Rideshare, as well as a current copy of Rideshare's complete Articles of Organization and all Certificates of Amendment, Correction, Dissolution, Continuation and/or Merger, and the Statement of Information as required by Section 17000 et seq. of the California

Corporations Code (the Beverly-Killea Limited Liability Act of September 30, 1994). Any changes shall be submitted to the Commission within 30 days.

2. Rideshare shall at all times provide to the Commission a complete and current copy of the franchise (area developer) agreement, Area Developers Manual and Operations Manual (or similar documents) between the Rideshare members and their franchisor. Any revisions or modifications shall be submitted to the Commission within 30 days.

3. Rideshare will at all times supply the Commission with the telephone number(s), address and person(s) responsible for receiving and responding to complaints as required by Commission General Order (GO) 158-A, Part 7.01.

4. Rideshare will at all times maintain a current tariff of the rates and charges, including applicable price discounts, restrictions, conditions, and limitations and scope of service, as required by GO 158-A.

Rideshare agreed to implement staff's recommendations in a letter from its attorney dated September 3, 1998.

On October 28, 1998, the Chief Administrative Law Judge issued a ruling assigning the application to Commissioner Duque and Administrative Law Judge (ALJ) Bushey. On November 6, 1998, the assigned Commissioner and ALJ convened a telephonic prehearing conference at which a procedural schedule was established.

Despite being provided for in the procedural schedule, protestants did not submit written direct testimony. The Applicant filed written testimony responding to a letter that had been filed by Universal Transportation. Pursuant to a revised schedule, evidentiary hearings were held on February 25, 1999.

Evidentiary Hearing

At the evidentiary hearing, the Applicant presented its managing partner as its only witness. Protestants appeared but, having filed no testimony, presented no witnesses. Protestants did, however, conduct cross-examination. All parties agreed to waive the filing of briefs and to rely on previously filed motions and responses as their statement of the legal issues.

The essence of protestants' position as stated in the brief filed on January 25, 1999, is that the Commission should not issue Rideshare a PSC certificate because its operations do not meet the statutory standards for passenger stage corporation or common carrier. Protestants contend that Rideshare will be simply "coordinating passengers" rather than running a shuttle van operation.

Several individuals, some of which were protestants and some of which were not, also appeared at the hearing. To allow these individuals a brief opportunity to present statements for the Commission's consideration, the ALJ allowed each to make comments on the record. The comments generally alleged business-related wrong-doing, most of which was irrelevant to the Commission's authority or beyond its jurisdiction. Because the commenters had not participated in the full hearing process, i.e., presenting prefiled written testimony or briefs to which the applicant could respond, their allegations will be accorded little weight.

Requirement for Commission Authorization

The Commission has previously approved the operating authority request of Blue Van Joint Venture, another LAX door-to-door shuttle van concessionaire operating as an "umbrella" or "overarching" organization whose underlying members or partners will actually operate the vehicles and hold PSC authority of their own in Decision 98-12-062. We, therefore, disagree with protestants'

contention that such authority is unnecessary, for the reasons stated in that decision.

Tariff Filing

Applicant states that shuttle van services under the concession agreement will be provided in accordance with the fares and the terms and conditions of service as set forth in the tariffs that each of the members have on file with the Commission. It therefore requests relief from the tariff filing requirement.

In Decision (D.) 98-12-062, the Commission denied a similar request, finding that Pub. Util. Code § 486 et seq. requires every common carrier (which includes passenger stage corporations) to file with the Commission and keep open for public inspection schedules showing rates, fares, charges and classifications, and to observe such schedules; and that practical considerations support having all carrier's operations at LAX subject to a uniform set of fares and operating rules which are set forth in a single tariff, not separate tariffs as proposed. In sum, the Commission found that operating under only one tariff is simpler and more consumer-friendly.

Consistent with D.98-12-062, Rideshare will be required to file a tariff as a condition of operating under a PSC certificate. We will approve the filing of fares contained in the existing tariff of David Regwan, the only Rideshare member currently holding PSC authority from the Commission. Those fares have already been determined by the Commission to be reasonable. David Regwan's tariff under PSC-5998 does not cover all of the territory Rideshare is seeking to serve. To the extent that Rideshare's tariff will therefore contain some fares not previously reviewed and approved by the Commission, those initial fares will be subject to review by the Commission staff, and if they are deemed to be unreasonable, suspension by the Commission.

Rideshare also requests a Zone of Rate Freedom (ZORF) pursuant to Pub. Util. Code § 454.2. Rideshare will be competing at LAX with Blue Van and other transportation providers, such as taxicabs, limousines, and buses. No party objected to this request. Rideshare will be authorized a ZORF with a range of \$10 above or below its base fare, with a minimum fare of \$2.

Annual Reports

GO 104-A requires every public utility (which includes passenger stage corporations) to file an annual report of its operations in such form and content as the Commission may prescribe. Applicant seeks a waiver from GO 104-A. It states that the members will continue to comply with the annual report filing requirement.²

Operations by the members of Rideshare at the LAX concession will technically be as charter-party subcarriers to Rideshare pursuant to the provisions of Part 3.03 of GO 158-A. A passenger carrier which holds only TCP authority is not required to file an annual report. However, the members will continue to hold PSC authority to operate independently of Rideshare at places other than LAX. They therefore will still be required to file an annual report containing information regarding all of their passenger carrier operations, both passenger stage and charter-party.

In the Blue Van decision, the Commission granted such an exemption because the Blue Van joint venturers would report the LAX concession operations in their respective PSC annual reports and thus the Commission

² While at this time Rideshare has only one member which holds a PSC certificate, it is possible that in the future membership could again be comprised of multiple holders of PSC authority.

would receive all the information. There, the Commission also required Blue Van's managing partner to certify annually by letter to the Commission that the joint venturers had in fact filed the requisite reports containing the financial information that Blue Van would otherwise be required to report on its own pursuant to GO 104-A. The Commission also placed Blue Van on notice that if in the future it files an application with the Commission for a fare increase, Blue Van will be expected to file a single financial statement of its operations to support the request.

We agree that in these circumstances, Applicant Rideshare should be granted the requested relief with the same requirements as adopted for Blue Van.

Reimbursement Fee

Pub. Util. Code § 421 et seq. requires passenger stage corporations and other transportation companies regulated by the Commission to pay a fee to the Commission to fund its regulatory activities. Fees collected are deposited in the Public Utilities Commission Transportation Reimbursement Account (PUCTRA). The fee level is determined annually by the Commission. Passenger stage corporations currently pay a PUCTRA fee of ½ of 1% of gross revenue plus a minimum quarterly fee of \$10 or an annual fee of \$25. (Carriers are required to file a PUCTRA report quarterly unless their annual gross revenue is \$100,000 or less, in which case the report is filed on an annual basis.)

Applicant requests relief from payment of PUCTRA fees for the same reason it seeks relief from the annual report filing requirement, that is, the individual members will continue to comply with the requirement.

In the Blue Van decision, we required Blue Van to submit a quarterly PUCTRA report, but to remit only the minimum fee of \$10. Although the joint venturers are responsible for payment of the percentage fee on passenger

revenue generated under the LAX concession arrangement, Blue Van is required to attach to each of its own quarterly reports a statement signed by its manager certifying that the PUCTRA fees due on the concession revenue have been reported and paid by the joint venturers. Blue Van was also placed on notice that in the event one or more of the joint venturers fails to timely submit a quarterly PUCTRA report, Blue Van's PSC certificate will be subject, after notice, to suspension and revocation in accordance with established Commission procedures. We will impose the same limitations on Rideshare's operations.

Rule 21(k)

Applicant seeks waiver of the Commission's requirement that every applicant for a PSC certificate forward a copy of the application to each public transit operator operating in any portion of the territory sought to be served and mail notice of the application to all city and county governmental entities and regional transportation planning agencies within whose boundaries passengers will be loaded or unloaded.

The Commission granted Blue Van's similar request for a waiver because Blue Van, like Rideshare, sought authority to serve territories already being served by its joint venturers under their respective PSC authorities. As in the Blue Van decision, we agree that under these circumstances that notice on the Daily Calendar was sufficient notice to affected agencies and governmental entities.

Carrier Responsibilities

Applicant states that it will not directly provide shuttle services to the public. Services under the LAX concession agreement will be provided by the members using their own fleets of vehicles. While the Commission has no objection to this arrangement, we remind Applicant that as holder of a PSC

certificate it will have ultimate responsibility for ensuring satisfactory service to the public and compliance with rules and regulations applicable to passenger stage corporations as set forth in GO 158-A. In this regard, Part 7.01 of GO 158-A requires the carrier to respond within 15 days to any written complaint concerning transportation service provided or arranged by the carrier, and within the same number of days respond to Commission staff inquiries regarding complaints. It is desirable and appropriate that Rideshare through its manager be responsible for responding to and resolving service complaints, notwithstanding that the service may have been provided in a vehicle operated by one of Applicant's members.

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 § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. The Board of Airport Commissioners of Los Angeles World Airports filed comments supporting the draft decision. Rideshare filed comments seeking authorization to file a new tariff, rather than relying on David Regwan's existing tariff.

Findings of Fact

1. Rideshare Port Management, L.L.C. dba Prime Time Shuttle (Rideshare) is a limited liability company formed for the purpose of operating under a concession agreement at LAX.
2. One of Rideshare's members holds authority from the Commission to operate as a passenger stage corporation and a charter-party carrier, and the other current member's request for such authority is pending before the Commission.

3. The Commission has previously concluded that because the LAX concession agreement requires the concessionaire to exercise a high degree of control over the conduct of the operation, it must hold a PSC certificate from the Commission to legally operate.

4. Rideshare requests authority to operate as an on-call passenger stage corporation between Los Angeles International Airport (LAX) and points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties.

5. Rideshare requests a waiver from the requirements of filing a tariff, filing an annual financial report, and remitting the transportation reimbursement fee.

6. Rideshare requests a waiver from the notice requirements set forth in Rule 21(k) of the Commission's Rules of Practice and Procedure.

7. Notice of the application appeared in the Commission's Daily Calendar on July 27, 1998, and on August 6, 1998, the Commission issued ALJ Resolution 176-2998 in which it preliminarily categorized the proceeding as ratesetting.

8. On August 26, 1998, protests were filed by: Airway Shuttle, Ace Shuttle, California Dream, 1-M Lucky Shuttle, Shuttle 2000, A-1 Prince Airport Shuttle, E-Shuttle, USA Shuttle, 3R Express, LAX Chequer Van, Inc., Quick Trip Airport Shuttle, Inc., and CABAC Inc. Universal Transportation Systems, Inc., also submitted a protest on August 28, 1998; a letter requesting withdrawal of the protest on September 28, 1998; and another letter dated October 25, 1998, requesting reinstatement of its protest.

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

10. Applicant has requested authorization to establish a ZORF pursuant to § 454.2.

11. Applicant states that a ZORF is necessary to allow it to develop innovative service offerings and respond quickly to changing market conditions.

12. Applicant states that it operates in competition with Blue Van which has an authorized ZORF. Applicant will also compete with other transportation providers, such as taxicabs, limousines and buses.

Conclusions of Law

1. Rideshare's proposed operations as a provider of door-to-door shuttle van service under a concession agreement with LAX require passenger stage corporation authority from the Commission.

2. Public convenience and necessity requires that Rideshare be granted a certificate to operate as a passenger stage corporation pursuant to Pub. Util. Code § 1031.

3. Rideshare should be required to file a tariff with the Commission to fulfill the requirements of Pub. Util. Code § 486 et seq.

4. Rideshare should be authorized to publish a new tariff reflecting fares not to exceed David Regwan's (All American Shuttle, PSC-5998) initial tariffs filed in 1990.³

5. Rideshare should be relieved from the requirement of filing an annual financial report under GO 104-A provided each of its members files the requisite report and Rideshare certifies that its own financial information is included in those reports.

6. Rideshare should be granted partial relief from PUCTRA reporting and payment requirements provided it files quarterly reports with minimum payment and certifies that its members have or will pay fees on LAX concession revenue.

³ Subsequent tariff supplements reducing fares to certain zip codes are excluded.

7. The requirements of Rule 21(k) of the Commission's Rules of Practice and Procedure should be waived in connection with this application.

8. The public interest supports authorizing Rideshare to set its rates within a zone of rate freedom.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Rideshare (Applicant) authorizing it to operate as a passenger stage corporation, (PSC-11323) as defined in Pub. Util. Code § 226, between the points and over the routes set forth in Appendix PSC-11415 to transport persons, baggage, and/or express.

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 a tariff and timetable within 120 days after this order is effective.
- c. State in its tariff and timetable when service will start.
- d. Comply with General Orders (GO) Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and GO Series 158.
- f. Comply with Pub. Util. Code §§ 460.7 and 1043 relating to the workers' compensation laws of this state.

3. Applicant is authorized to publish a new tariff reflecting fares not to exceed David Regwan's (All American Shuttle, PSC-5998) initial tariffs filed in 1990.

4. In establishing a tariff, Applicant is authorized to use a zone of rate freedom (ZORF) within the following limitations:

- a. Fares shall be within a range of \$10 above or below Applicant's base rates. The base rates shall be the initial rates filed in accordance with Ordering Paragraphs 2b and 3.
- b. The minimum fare shall be \$2.00.
- c. Changes to the ZORF shall be made by filing tariffs on not less than 10 days notice to the Commission and the public.
- d. Public notice shall be by posting notices in its terminals and passenger carrying vehicles and shall be posted for at least five days before the effective date and shall remain posted for 30 days.

5. Applicant shall comply with Commission staff's recommendations set out in their August 27, 1998 filing.

6. Applicant is relieved from the requirement of GO 104-A to file an annual financial report, provided that Applicant's manager certifies annually by letter to the Commission that all certificated members have each filed a report which includes financial information which Applicant would otherwise be required to report on its own. Applicant is placed on notice that if in the future it makes application to the Commission for a fare increase, it will be required to file a single financial statement of its operations to support the request.

7. Applicant is relieved from the requirement of remitting the Public Utilities Commission Transportation Reimbursement Account (PUCTRA) fees based on gross revenue provided that it submits quarterly PUCTRA reports with the minimum fee payment and attaches to each report a statement signed by its manager certifying that PUCTRA fees due on Los Angeles International Airport concession revenue have been paid by its members. Applicant is placed on notice that in the event one or more of these carriers fails to timely submit a

quarterly PUCTRA report, Applicant's PSC certificate will be subject, after notice, to suspension and revocation in accordance with established Commission procedures.

8. The notice requirements of Rule 21(k) of the Commission's Rules of Practice and Procedure are waived in this application.

9. 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.

10. 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.

11. The certificate of public convenience and necessity to operate as a passenger stage corporation (PSC-11415), granted herein, expires unless exercised within 120 days after the effective date of this order.

12. The application is granted as set forth above.

13. This proceeding is closed.

This order is effective today.

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

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

D/PW*

Appendix PSC-11415 Rideshare Port Management, L.L.C. Original Title Page
dba Prime Time Shuttle
(a limited liability company)

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-11415

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 99-04-050 dated April 22, 1999, of the Public
Utilities Commission of the State of California in Application 98-07-043.

D/PW

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Issued by California Public Utilities Commission.

Decision 99-04-050, Application 98-07-043.

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

Rideshare Port Management, L.L.C. dba Prime Time Shuttle, 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 IIA, and the airport described in Section IIB, 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 a route description is given in one direction, it applies 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 tariff and timetable 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 IIB.
- 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.

Issued by California Public Utilities Commission.

Decision 99-04-050, Application 98-07-043.

D/PW

Appendix PSC-11415

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SECTION II. SERVICE AREA.

- A. Within the geographical limits of the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura.
- B. Los Angeles International Airport.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point as described in Section IIA, then over the most convenient streets, expressways, and highways to the places described in Section IIB.

Issued by California Public Utilities Commission.

Decision 99-04-050, Application 98-07-043.