

Decision 00-05-040 May 18, 2000

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Legacy Transportation Systems, Inc., a California corporation, to transfer control of its passenger stage certificate (PSC-10284) to its subsidiary South Cal Systems, LLC, a California Limited Liability Company, under Section 851, et seq., of the Public Utilities (PU) Code, & Resolution TL-18875.

Application 99-12-008  
(Filed December 6, 1999)

**O P I N I O N**

**Summary**

This decision grants the application of Legacy Transportation Systems, Inc. (Transferor), a corporation, and South Cal Systems, LLC (Transferee), a limited liability company, to transfer a certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, pursuant to Pub. Util. Code § 851 et seq.

**Discussion**

Transferor is authorized to operate as an on-call PSC to transport persons and their baggage between San Diego International Airport (SDIA), on the one hand, and Oceanside, Escondido, Alpine, Spring Valley, and intermediate points within eight miles of named highways, on the other hand. This authority was granted by Decision (D.) 96-07-002, as described in Appendix PSC-10284 of that decision.

Exhibit E to the application is the "Transfer Agreement." The transfer is represented as a restructuring of the transportation business for the purpose of

improving opportunities and maintaining a competitive presence in the passenger transportation industry. No monetary consideration is involved in the transfer. Transferor will maintain controlling interest in Transferee. Paul Theus is president of Transferor and manager of Transferee. Transferor controls 80% of Transferee. Paul Theus owns 20% interest in Transferee.

Exhibit F to the application is the unaudited Balance Sheet as of August 31, 1999, that discloses total assets of \$148,013 and total equity of \$148,013.

Notice of filing of the application appeared in the Commission's Daily Calendar on December 8, 1999. A protest to this application was filed on December 23, 1999, by San Diego Unified Port District (SDUPD), which operates SDIA. SDUPD stated that it had issued the maximum number of ground transportation permits allowed under its Code. On March 4, 2000, SDUPD withdrew its protest. SDUPD advised the Commission that upon transfer of the CPCN, SDUPD intends to revoke Transferor's authority to operate at SDIA and to deny any request by Transferee to operate at SDIA. Copies of the preceding documents were served on the parties.

The CPCN granted by D.96-07-002 authorizes service only to or from SDIA. SDUPD has made its intentions clear with regard to Transferee operating at SDIA. It is therefore appropriate to call attention to Ordering Paragraph 5 of this decision, which provides that Transferee shall not operate into or on any airport property unless such operations are also authorized by the airport's governing body.

In Resolution ALJ 176-3029 dated December 16, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. A protest was filed and then withdrawn. Given this status, public hearing is not necessary, and it is not

necessary to alter the preliminary determinations made in Resolution ALJ 176-3029.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. Transferor is operating as a PSC pursuant to a CPCN described in Appendix PSC-10284 of D.96-07-002.
2. Transferor agreed to transfer its PSC-10284 certificate to Transferee.
3. The proposed transfer will not be adverse to the public interest.
4. A protest to the application was filed on December 23, 1999. Protestant filed a notice on March 4, 2000, to withdraw its protest.
5. A public hearing is not necessary.
6. 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. The proposed transfer is in the public interest and should be authorized. The application should be granted.
2. Since the protest has been withdrawn, the 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. Within 120 days from the effective date of this decision, Legacy Transportation Systems, Inc. (Transferor), a corporation, may transfer the operative rights specified in the application to South Cal Systems, LLC (Transferee), a limited liability company, subject to the conditions contained in the following paragraphs.

2. Transferee shall:

- a. File a written acceptance of the transfer certificate within 30 days after this order is effective and a copy of the bill of sale.
- b. Amend or reissue Transferor's tariffs and timetables, with the provision that they are consistent to the authority specified in Appendix PSC-13197. The effective date of the tariffs and timetables shall be ten or more days after this order is effective and allow at least ten days' notice to the Commission.
- c. Comply with General Orders Series 101, 104, 158, and the California Highway Patrol (CHP) safety rules.
- d. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. 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 Pub. Util. Code § 403 when notified by mail to do so.
- g. Comply with Pub. Util. 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 transfer is completed, a certificate of public convenience and necessity (CPCN) is granted to Transferee, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, between the points and over the routes set forth in Appendix PSC-13197, to transport persons and their baggage.

4. The CPCN granted to Transferor by Decision 96-07-002 is revoked on the date the Transferee is notified that it may commence operations as provided in Ordering Paragraph 6.

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 and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Transferee's vehicle for service.

7. The CPCN to operate as a PSC (PSC-13197), granted herein to Transferee, expires, unless exercised within 120 days after the effective date of this order.

8. The application is granted as set forth above.
9. This proceeding is closed.

This order is effective today.

Dated May 18, 2000, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

CARL W. WOOD

Commissioners

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-13197

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Showing passenger stage operative rights,  
restrictions, limitations, exceptions, and privileges.

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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.

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Supersedes the authority heretofore granted to  
Legacy Transportation Systems, Inc., a corporation, by D.96-07-002.

Issued under authority of Decision 00-05-040, dated May 18, 2000, of the Public  
Utilities Commission of the State of California in Application 99-12-008.

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Issued by California Public Utilities Commission.

Decision 00-05-040, Application 99-12-008.



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

This certificate supersedes all passenger stage operative authorities granted to Legacy Transportation Systems, Inc., a corporation.

South Cal Systems, 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 between points and places as described in Section IIA and 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 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 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.

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SECTION II. SERVICE AREAS.

A. The service areas as shown below include any point within eight miles on each side of the specified freeway or highway.

(1) Oceanside

Between Oceanside and SDIA on Interstate (I) 5.

(2) Escondido

Between Escondido and SDIA on I-15 and Route (Rte) 163.

(3) Alpine

Between Alpine and SDIA on I-8 and Rte 163.

(4) Spring Valley

Between Spring Valley and SDIA on Rte 94 and I-94.

B. San Diego 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 airport described in Section IIB.

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