

Decision 99-10-011 October 7, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Essam A. Mahgoub, doing business as Horizon Airporter for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, and Contra Costa Counties and the San Francisco, Oakland and San Jose International Airports and to Establish a Zone of Rate Freedom.

Application 99-06-044
(Filed June 24, 1999)

O P I N I O N

Summary

This decision grants the application of Essam A. Mahgoub (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation, as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

Applicant requests authority to operate as an on-call passenger stage corporation to transport passengers and their baggage between points in the counties of San Francisco, Alameda, and Contra Costa, on the one hand, and San Francisco (SFO), Oakland (OAK), and San Jose (SJC) International Airports, on the other hand. Applicant will use two vans. The proposed fares, as listed in Exhibit C, range between \$15 (Emeryville - Oakland - OAK) and \$65 (Berkeley - SJC). Exhibit E to the application is the unaudited Balance Sheet as of June 7, 1999, that discloses: cash on hand, \$56,000; personal property \$14,000; vehicles

\$21,000; real estate \$100,000 or total assets of \$191,000. Liabilities consist of \$17,000 in accounts and notes payable. Net worth is \$174,000. There is no provision for depreciation.

Applicant also requests authority to establish a ZORF of \$8 above and below the proposed fares, with a minimum one-way adult fare of \$5, shown in Exhibit C, attached to the application. The staff is of the opinion that the establishment of the ZORF is fair and reasonable.

Applicant will compete with other passenger stage corporations, taxi cabs, limousines, buses, and automobiles in his service area.

Notice of filing of the application appeared in the Commission's Daily Calendar on June 30, 1999. The applicant notified the affected airports and transit agencies. Applicant requests a waiver from the provisions of Rule 21 of the Commission's Rules of Practice and Procedure which require service of a notice of the application on all city and county officials within whose boundaries the passengers will be loaded or unloaded. Applicant stated that he has served a notice to the three involved counties and 13 cities in the service area and that all parties that have an interest in Commission proceedings subscribe to or have access to the Commission's Daily Calendar. We shall exercise the discretion accorded to us by Rule 87 and grant the waiver requested by Applicant because the Applicant will be providing on-call service, not scheduled service.

In Resolution ALJ 176-3019 dated July 9, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3019.

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. Applicant requests authority to operate as an on-call passenger stage corporation to transport passengers and their baggage between points in the counties of San Francisco, Alameda, and Contra Costa, on the one hand, and SFO, OAK, and SJC, on the other hand.

2. Public convenience and necessity requires the proposed service.

3. Applicant requests authority to establish a ZORF of \$8 above and below the proposed fares, with a minimum one-way adult fare of \$5, as shown in Exhibit C, attached to the application. The ZORF is fair and reasonable.

4. Applicant will compete with passenger stage corporations, taxi cabs, limousines, buses, and automobiles in his operations.

5. No protests to the application have been filed.

6. A public hearing is not necessary.

7. Applicant requests a waiver of the notice requirements of Rule 21 of the Rules of Practice and Procedure as he has served notice to 13 cities and each of the affected airports, counties, public transit operators and the transportation planning agency in the service area.

8. 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. Public convenience and necessity has been demonstrated and the application should be granted.

2. The request for a ZORF should be granted.

3. Before applicant changes any fares under the ZORF authorized below, applicant shall give this Commission at least 10 days' notice. The filing of ZORF fares should be shown in the tariff showing between each pair of service points the high and low ends of the ZORF and the then currently effective fare.

4. The request to waive the notice requirements of Rule 21 should be granted.

5. Since the matter is uncontested, 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. A certificate of public convenience and necessity is granted to Essam A. Mahgoub (Applicant), an individual, authorizing him to operate as a passenger stage corporation, as defined in Pub. Util. Code § 226, to transport persons and their baggage, between the points and over the routes set forth in Appendix PSC-12697 subject to the conditions contained in the following paragraphs.

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 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 10 days' notice to the Commission; and make timetables and tariffs effective 10 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 Pub. Util. 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 Pub. Util. Code § 403 when notified by mail to do so.
 - h. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
 - i. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.
3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a Zone of Rate Freedom (ZORF) of \$8 above and below the proposed fares, as shown in Exhibit C, attached to the application.
4. Applicant shall file a ZORF tariff in accordance with the application on not less than 10 days' notice to the Commission and to the public and subject to Commission approval. The ZORF shall expire unless exercised within 120 days after the effective date of this order.
5. Applicant may make changes within the ZORF by filing amended tariffs on not less than 10 days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.
6. In addition to posting and filing tariffs, applicant shall post notices explaining fare changes in his terminals and passenger-carrying vehicles. Such notices shall be posted at least five days before the effective date of the fare changes and shall remain posted for at least 30 days.
7. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to the applicant that his 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 vehicle for service.

8. 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 authorized by the airport's governing body.

9. The certificate of public convenience and necessity to operate as a passenger stage corporation (PSC-12697), granted herein, expires, unless exercised within 120 days after the effective date of this order.

10. The notice requirements of Rule 21 of the Commission's Rules of Practice and Procedure are waived as copies and notice of the application have been served upon parties that may have an interest in this proceeding.

11. The Application is granted as set forth above.

This order is effective today.

Dated October 7, 1999, at Los Angeles, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-12697

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.

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

Essam A. Mahgoub, 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 on an "on-call" basis, between points and places as described in Section IIA, and the airports 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 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 any airport unless such operation is authorized by the airport authority involved.

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SECTION II. SERVICE AREA.

- A. Within points and places in the counties of San Francisco, Alameda, and Contra Costa.
- B. San Francisco International Airport.
Oakland International Airport.
San Jose 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 airports described in Section IIB.

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