

Decision

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

Application of Kong Da Express, a California corporation, for a Certificate of Public Convenience and Necessity to operate as Scheduled Passenger Stage corporation between points in San Francisco, California and Cache Creek Casino Resort in Brooks, California, and the Jackson Rancheria in Jackson, California; and to establish a Zone of Rate Freedom.

Application 14-10-016  
(Filed October 27, 2014)

**D E C I S I O N**

**Summary**

This decision grants the application of Kong Da Express (Applicant), a California corporation, 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, pursuant to Pub. Util. Code § 454.2.

**Discussion**

The application requests authority to operate as a scheduled passenger stage corporation (PSC) to transport passengers and their baggage between San Francisco, on the one hand, and the Cache Creek Casino Resort in Brooks, California, and the Jackson Rancheria in Jackson, California, on the other hand. Applicant proposes to serve Indian gaming establishments at these locations.

Applicant will operate one trip daily to the various casinos. Its fleet consists of two buses that have seating capacities ranging from 51 to 61 passengers.

The proposed round-trip fares are \$12 from San Francisco to Cache Creek Resort, and \$8 from San Francisco to Jackson Rancheria. Applicant requests authority to establish a zone of rate freedom (ZORF), but did not specify the amount. Pursuant to Ordering Paragraph 11 of Decision (D.)15-05-029 we will authorize a ZORF of 15 percent above and below the proposed fares. Applicant will compete with other PSCs, charter vehicles, and private automobiles in its service area. This competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The authorized ZORF is generally consistent with the ZORFs held by other PSCs.

Since the proposed service will reduce the number of vehicles on the public highways in the proposed service area, a California Environmental Quality Act review is not required because it can be seen with certainty that there is no possibility that the activity may have a significant adverse effect on the environment.

Notice of filing of the application appeared in the Commission's Daily Calendar on November 13, 2014. Applicant mailed a copy of the application to the public transit operators in the service area and sent a notice of the application to the affected cities and counties.

### **Safety Considerations**

In order to be authorized to commence operations as a PSC, the Applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code

§1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

In Resolution ALJ 176-3346, dated November 20, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3346.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

Elizaveta Malashenko is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between San Francisco, on the one hand, and the Cache Creek Casino Resort in Brooks, California, and the Jackson Rancheria in Jackson, California, on the other hand
2. A ZORF of 15 percent above and below the proposed round-trip fares is allowed pursuant to O.P. 11 of D.15-05-029.
3. Applicant will compete with other PSCs, charter vehicles, and private automobiles in its operations. The ZORF is fair and reasonable.
4. No protest to the application has been filed.
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. 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 should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

## **O R D E R**

### **IT IS ORDERED** that:

1. A certificate of public convenience and necessity (CPCN) is granted to Kong Da Express, a California corporation, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-29167, subject to the conditions contained in the following paragraphs.
2. Kong Da Express, a California corporation shall:
  - a. File a written acceptance of this certificate within 30 days after this decision is effective.
  - b. Establish the authorized service and file tariffs and timetables within 120 days after this decision is effective.

- c. File tariffs on or after the effective date of this decision. They shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders 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 General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 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 Vehicle Code § 1808.1.

3. Kong Da Express, a California corporation, is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of 15 percent above and below the proposed round-trip fare of \$10.

4. Kong Da Express, a California corporation, shall file a zone of rate freedom (ZORF) tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Kong Da Express, a California corporation, may make changes within the zone of rate freedom (ZORF) by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Kong Da Express, a California corporation, shall post notices explaining fare changes in its terminals and

passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Kong Da Express, a California corporation, is authorized to begin operations on the date that the Commission Safety and Enforcement 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 California Highway Patrol has approved the use of Applicant's vehicles for service.

8. Stop Points established by the carrier to load and discharge passengers shall conform to all applicable parking or passenger loading zone regulations adopted by local authorities.

9. The Certificate of Public Convenience and Necessity to operate as PSC-29167, granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated , at San Francisco, California.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY  
AS A PASSENGER STAGE CORPORATION  
PSC-29167

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

Kong Da Express a California corporation, 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 a scheduled basis between the points described in Section II, over the routes 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. Service shall be operated only at the points described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. 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.
- D. Stop Points established by the carrier to load and discharge passengers shall conform to all applicable parking or passenger loading zone regulations adopted by local authorities.

SECTION II. SERVICE AREAS.

- A. City and County of San Francisco
- B. Community of Brooks (Yolo County)  
City of Jackson

SECTION III. ROUTE DESCRIPTIONS.

Route 1

Commencing from San Francisco, then over the most convenient streets and highways to Brooks.

Route 2

Commencing from San Francisco, then over the most convenient streets and highways to Jackson.