

Decision 11-04-012 April 14, 2011

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

Application of Abual Kassim, Dina Agag & Mohamed Hussain, dba AGAG Express Shuttle for a Certificate of Public Convenience and Necessity to operate an on call, door-to-door Passenger Stage Service between the Counties of Alameda, Contra Costa, Solano, Marin, Napa, Sonoma, San Joaquin, Santa Clara and San Francisco, and the International Airports located in San Francisco, Oakland and San Jose; and to establish a Zone of Rate Freedom.

Application 11-02-010  
(Filed February 9, 2011)

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

**Summary**

This decision grants the application of Abual Kassim, Dina Agag, and Mohamed Hussain (Applicants), a partnership, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF), pursuant to Pub. Util. Code § 454.2.

**Discussion**

The application requests authority to operate as an on-call PSC to transport passengers and their baggage between points in Alameda, Contra Costa, Marin, Napa, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, and Sonoma Counties, on the one hand, San Francisco (SFO), Oakland (OAK), and San Jose

(SJC) International Airports, on the other hand.<sup>1</sup> Applicants state that there has been an increase in airline traffic at Bay Area airports, including an expansion in the number of flights operated by Southwest Airlines. This has created a greater need for airport ground transportation services. Increases in airport parking fees have added to the demand.

Each of Applicants' partners has more than five years' experience as a driver of commercial passenger vehicles. Operations will be conducted initially with one 7-passenger van. Applicants were granted a charter-party carrier permit (TCP 26751-P) by the Commission on January 5, 2011. Attached to the application as Exhibit E is Applicants' financial statement as of January 14, 2011, that discloses assets of \$24,250, liabilities of \$4,300, and net worth of \$19,950.

The proposed fares, as described in Exhibit A of the application, range between \$23 (San Bruno - SFO) and \$180 (Calistoga - SJC). Applicants request authority to establish a ZORF of \$20 above and below the proposed fares. The minimum fare will be \$15. Applicants will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in their service area. This highly competitive environment should result in Applicants pricing their services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on February 14, 2011. Applicants request a waiver from the provisions of Rule 3.3(b) of the Commission's Rules of Practice and Procedure which require

---

<sup>1</sup> San Mateo County is included in the body of the application, but Applicant failed to list it in the application caption.

that a copy of the application be served on each public transit agency in the service area and a notice of the application be sent to all city and county officials within whose boundaries the passengers will be loaded or unloaded. Applicants mailed a notice of the application to 46 cities in the service area. They believe the Commission's Daily Calendar provides adequate notice to parties that may have an interest in the application. We shall exercise the discretion accorded to us by Rule 1.2 and grant the waiver requested by Applicants because they will be providing on-call service, not scheduled service, and service on all of the governmental entities required by Rule 3.3(b) would be burdensome.

In Resolution ALJ 176-3269, dated February 24, 2011, 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 176-3269.

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.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The application requests authority to operate as an on-call PSC to transport passengers and their baggage between points in Alameda, Contra Costa, Marin, Napa, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, and Sonoma Counties, on the one hand, and SFO, OAK, and SJC, on the other hand.
2. Public convenience and necessity requires the proposed service.

3. Applicants request authority to establish a ZORF of \$20 above and below the proposed fares described in Exhibit A of the application. The minimum fare will be \$15.

4. Applicants will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in their operations. The ZORF is fair and reasonable.

5. Applicants request a waiver of the notice requirements of Rule 3.3(b) of the Rules of Practice and Procedure as they have served a notice of the application to 46 cities in the service area.

6. No protest to the application has been filed.

7. A public hearing is not necessary.

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 to waive the notice requirements of Rule 3.3(b) should be granted.

3. The request for a ZORF should be granted.

4. Before Applicants change any fares under the ZORF authorized below, Applicants 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.

5. 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 Abual Kassim, Dina Agag, and Mohamed Hussain (Applicants), a partnership, authorizing them 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-26751, subject to the conditions contained in the following paragraphs.

2. Applicants 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 Commission's 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. Applicants are authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$20 above and below the proposed fares described in the application. The minimum fare will be \$15.

4. Applicants shall file a 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. Applicants may make changes within the 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, Applicants shall post notices explaining fare changes in their 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. Applicants are authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicants that their 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 Applicants' vehicles for service.

8. Before beginning service to any airport, Applicants shall notify the airport's governing body. Applicants shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-26751, granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The notice requirements of Rule 3.3(b) of the Commission's Rules of Practice and Procedure are waived as a notice of the application has been served on parties that may have an interest in this proceeding.

11. The Application is granted as set forth above.

12. This proceeding is closed.

This decision is effective today.

Dated April 14, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners

CPSD/pw

Appendix PSC-26751

Abual Kassim, Dina Agag,  
and Mohamed Hussain  
(a partnership)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-26751

-----

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 11-04-012, dated April 14, 2011, of the Public  
Utilities Commission of the State of California in Application 11-02-010.

**I N D E X**

	<b>Page</b>
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION II. SERVICE AREA .....	3
SECTION III. ROUTE DESCRIPTIONS .....	3

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

Abual Kassim, Dina Agag, and Mohamed Hussain, a partnership, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, are authorized to transport passengers and their baggage on an "on-call" 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. The term "on-call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- 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.

SECTION II. SERVICE AREA.

- A. Points in the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Joaquin, San Mateo, Santa Clara, and Solano and Sonoma.
- B. San Francisco International Airport (SFO).  
Oakland International Airport (OAK).  
San Jose International Airport (SJC).

SECTION III. ROUTE DESCRIPTIONS

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