

Decision 01-03-016 March 15, 2001

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

Amended Application of Constantino Fourniotis, dba Acropolis Airport Shuttle to extend his passenger stage corporation to include Alameda, San Francisco, Solano and Contra Costa Counties in addition to Santa Clara County as service areas and to include as destinations the Oakland and San Francisco International Airports in addition to the San Jose International Airport; and to establish a zone of rate freedom.

Application 00-09-047  
(Filed September 26, 2000;  
amended December 7, 2000)

**O P I N I O N**

**Summary**

This decision grants the application of Constantino Fourniotis (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., to extend his 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**

Applicant is currently authorized to operate as an on-call PSC (PSC-12903) pursuant to Decision (D.) 00-04-052 between points in San Francisco, Alameda, Solano, and Contra Costa counties, on the one hand, and San Francisco (SFO) and Oakland (OAK) International Airports, on the other hand.

The application, as amended, requests approval to serve San Jose International Airport (SJC) and to extend the service territory to include all points in Santa Clara County. The proposed fares for the extended service, as listed in amended Exhibit C, range between \$17 (part of San Jose-SJC) and \$80 (Vacaville-SJC).

Applicant also requests authority to establish a ZORF of \$10 above and below any of the proposed fares of \$20 and under, and \$15 above and below the proposed fares \$21 and above, shown in Exhibit C, attached to the application, as amended. The minimum one-way adult fare is \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and automobiles in his service area. The establishment of the ZORF is fair and reasonable.

Notice of filing of the application, as amended, appeared in the Commission's Daily Calendar on September 28 and December 11, 2000. Applicant notified the affected cities, airports and transit agencies. Applicant requests a waiver from the provisions of Rule 21 of the Commission's Rules of Practice and Procedure which requires service of a notice of the application on all city and county officials within whose boundaries the passengers will be loaded or unloaded. Applicant served a notice to the four involved counties and twenty-eight cities in the service area. Applicant said 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 he will be providing on-call service, not scheduled service.

In Resolution ALJ 176-3048 dated October 5, 2000, 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 176-3048.

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 is currently authorized to operate as an on-call PSC pursuant to D.00-04-052 between points in San Francisco, Alameda, Solano, and Contra Costa counties, on the one hand, and SFO and OAK, on the other hand.
2. The amended application requests authority to serve SJC and to extend the service territory to include Santa Clara County.
3. Public convenience and necessity requires the proposed service.
4. Applicant requests authority to establish a ZORF of \$10 above and below any of the proposed fares of \$20 and under, and \$15 above and below the proposed fares \$21 and above, as shown in Exhibit C, attached to the application, as amended. The minimum one-way adult fare is \$5.
5. Applicant will compete with PSCs, taxicabs, limousines, buses, and automobiles in his operations. The ZORF is fair and reasonable.
6. No protest to the application has been filed.
7. A public hearing is not necessary.
8. Applicant requests a waiver of the notice requirements of Rule 21 of the Rules of Practice and Procedure as he has served notice to four counties, twenty-eight cities, each of the affected airports and public transit operators, and the transportation planning agency in the service area.
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.

**Conclusions of Law**

1. Public convenience and necessity has been demonstrated and the application, as amended, 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. The certificate of public convenience and necessity (CPCN) granted to Constantino Fourniotis (Applicant), an individual, authorizing him to operate as a passenger stage corporation (PSC), 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-12903, of Decision 00-04-052 is amended by replacing Original Page 3 with First Revised Page 3, 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. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- 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 § 423 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 ZORF of \$10 above and below any of the proposed fares of \$20 and under, and \$15 above and below the proposed fares \$21 and above, shown in Exhibit C, attached to the application, as amended. The minimum one-way adult fare is \$5.

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. 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 ten days before the effective date of the fare changes and shall remain posted for at least thirty 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 vehicles 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 CPCN to operate as a PSC-12903, 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, as amended, is granted as set forth above.
12. This proceeding is closed.

This order is effective today.

Dated March 15, 2001, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

SECTION II. SERVICE AREA.

- A. Points and places in the Counties of \*Santa, Clara, San Francisco, Alameda, Solano, and Contra Costa.
- B. Airports:
  - 1. \*San Jose International Airport (SJC).
  - 2. Oakland International Airport (OAK).
  - 3. San Francisco International Airport (SFO).

SECTION III. ROUTE DESCRIPTION.

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