

Decision 09-07-012 July 9, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Ehab Elsayed, an individual dba West Coast Shuttle & Limo, to transfer his PSC Certificate No. 10050 to West Coast Transit, Inc. to expand the existing authority to serve the Counties of Marin, Sonoma, Napa, San Joaquin and Santa Clara and to expand an existing Zone of Rate Freedom.

Application 09-04-013
(Filed April 6, 2009)

D E C I S I O N

Summary

This decision grants the application (1) to transfer, pursuant to Pub. Util. Code § 851 et seq., a passenger stage corporation (PSC) certificate from Ehab Elsayed (Transferor), an individual, to West Coast Transit, Inc. (Transferee), a corporation, (2) to extend the service area of the PSC certificate being transferred, and (3) to establish a new zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

Transferor is authorized by Decision (D.) 99-08-009 to operate as a passenger stage corporation (PSC-10050) to transport passengers and their baggage on an on-call basis between points in Alameda, Contra Costa, San Francisco, and Solano Counties, on the one hand, and San Francisco (SFO), Oakland (OAK), and San Jose (SJC) International Airports, on the other hand. Transferor desires to change his form of business organization from a proprietorship to a corporation. The application requests approval to transfer

the PSC certificate and to expand the authorized service territory to include the Counties of Marin, Sonoma, Napa, San Joaquin, and Santa Clara.

Transferee indicates the transfer will not affect the public since there will be no change in ownership. The request to expand the certificate is based on Transferor's experience that demand for airport shuttle service to and from the counties adjoining his authorized service territory is increasing. Transferor has been providing passengers with charter transportation between points in those counties and the airports under his charter-party carrier permit. However, he would like meet the public's demand for shared ride door-to-door service by expanding the PSC authority in conjunction with the transfer of the certificate. Operations will conducted with the four vehicles currently in service. If additional vehicles are required to meet the public's transportation needs, they will be acquired. Attached to the application as Exhibit E is Transferee's unaudited balance sheet dated March 1, 2009, which discloses assets of \$156,000, liabilities of \$2,000, and net worth of \$154,000.

The proposed fares for service to and from points in the additional counties range between \$53 (Campbell - SJC) and \$250 (West Marin/Inverness - SJC). D.99-08-009 authorized Transferor to establish a ZORF of \$8 above and below his fares. Transferee states that this level of ZORF is now too restrictive and not commensurate with ZORFs held by other PSCs operating in the San Francisco Bay Area. Transferee requests to establish a new ZORF of \$15 above and below fares of \$30 or less and \$25 above and below fares over \$30. The new ZORF will apply to the current fares of Transferor (which Transferee will adopt as its own) and the proposed new fares for the expanded service, as shown in Exhibit B of the application. The minimum fare will be \$5. Transferee will compete with other PSCs, taxicabs, charter vehicles, public transit, and private automobiles in its service area. This highly competitive environment should

result in Transferee pricing its 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 April 21, 2009. Transferee requests a waiver from the provisions of Rule 3.3(b) 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. Transferee sent a notice to the affected airports, the five counties involved in the expansion request, 19 cities, and the Metropolitan Transportation Commission. Transferee states that all parties that have an interest in Commission proceedings have access to the Commission's Daily Calendar. We shall exercise the discretion accorded to us by Rule 1.2 and grant the waiver requested by Transferee because it will be providing on-call service, not scheduled service, and service on all cities in the service territory would be burdensome.

In Resolution ALJ 176-3233 dated May 7, 2009, 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 176-3233.

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. Transferor is operating as a PSC pursuant to D.99-08-009.
2. Transferor requests approval to transfer certificate PSC-10050 to Transferee.
3. The proposed transfer will not be adverse to the public interest.
4. Transferee requests to extend the PSC authority to be transferred to include service between points in Marin, Sonoma, Napa, San Joaquin, and Santa Clara Counties, on the one hand, and SFO, OAK, and SJC, on the other hand.
5. Public convenience and necessity requires the proposed new service.
6. Transferee requests authority to establish a new ZORF of \$15 above and below any fares that are under \$30 and \$25 above and below any fares that are over \$30. The ZORF will apply to current fares for the existing service territory and to the proposed fares shown in Exhibit B of the application for the additional counties to be served. The minimum fare will be \$5.
7. Transferee will compete with PSCs, taxicabs, charter vehicles, public transit, and private automobiles in its operations. The ZORF is fair and reasonable.
8. No protest to the application has been filed.
9. A public hearing is not necessary.
10. 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.
2. Public convenience and necessity has been demonstrated and the request to extend the authority to be transferred should be granted.
3. The request for a ZORF should be granted.

4. Before Transferee changes any fares under the ZORF authorized below, Transferee 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. Within 120 days from the effective date of this decision, Ehab Elsayed (Transferor), an individual, may transfer his certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC) specified in this application to West Coast Transit, Inc. (Transferee), a corporation.

Transferee is authorized to extend the CPCN to operate as a PSC, subject to the conditions contained in the following paragraphs.

2. Transferee shall:

- a. File a written acceptance of this certificate within 30 days after this decision is effective.
- b. Within 120 days after this order is effective, adopt Transferor's tariffs and file new tariffs and timetables for the extended service, state in them when the service will start, make them effective 10 or more days after this decision is effective, and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series 101 and 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. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- f. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- g. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Transferee is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$15 above and below any fares of \$30 or less and \$25 above and below any fares over \$30. The ZORF will apply to current fares for the existing service territory and to the proposed fares for the additional counties to be served. The minimum fare will be \$5.

4. Transferee 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. Transferee 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, Transferee 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. Transferee is authorized to begin operations on the date that the Consumer Protection and Safety 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 vehicles for service.

8. The CPCN granted to Transferor by Decision 99-08-009 is revoked on the date Transferee is notified that it may commence operations as provided in Ordering Paragraph 7.

9. Before beginning service to any airport, Transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property without authority from the airport's governing body.

10. The CPCN to operate as PSC-25012, granted herein, shall expire unless exercised within 120 days after the effective date of this decision.

11. The Application is granted as set forth above.

12. This proceeding is closed.

This decision is effective today.

Dated July 9, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-25012

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.

Supersedes the authority heretofore granted to
Ehab Elsayed, an individual, by Decision 99-08-009.

I N D E X

	Page
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION II. SERVICE AREA	3
SECTION III. ROUTE DESCRIPTION	3

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

This certificate supersedes all passenger stage operative authority granted to Ehab Elsayed, an individual.

West Coast Transit, Inc., a 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 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 Sections 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, Santa Clara, Solano, and Sonoma.
- B. San Francisco International Airport (SFO)
Oakland International Airport (OAK)
San Jose International Airport (SJC)

SECTION III. ROUTE DESCRIPTION.

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