

Decision 09-11-012 November 20, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Kwang Weon Bae to Expand his PSC Certificate #20458 to include specific points in and between the Counties of Santa Clara and Los Angeles; and to establish a Zone of Rate Freedom (ZORF).

Application 09-07-006
(Filed July 2, 2009)

D E C I S I O N

Summary

This decision grants the application of Kwang Weon Bae (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 authorized by Decision (D.) 08-10-028 to operate as an on-call PSC to transport passengers and their baggage between points in Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara Counties, on the one hand, and San Francisco, Oakland and San Jose International Airports, on the other hand. The application requests authority to expand the PSC certificate to include scheduled service between the Cities of Santa Clara and Los Angeles. Applicant's anticipated customer base will be non-English speaking passengers. He indicates the proposed service will provide a safe, easily accessible form of long distance transportation to travelers who might not wish to use traditional

forms of transportation due to fear of not being able to properly communicate their needs to the operator.

Applicant advises he has the knowledge and ability to conduct the proposed service. He has ten years' commercial driving experience, including three years operating a charter-party limousine service under Commission-issued authority. The service will operate initially with a 12-passenger van. Applicant plans to add other vehicles in the future, including a 28-passenger bus. Attached to the application as Exhibit C is Applicant's unaudited balance sheet as of May 31, 2009, which discloses assets of \$111,000, liabilities of \$72,600, and net worth of \$38,400.

The proposed one-way fare is \$79. Applicant requests authority to establish a ZORF of \$15 above and below this fare. He will compete with other PSCs, Amtrak, airlines, and private automobiles. This competitive environment should result in Applicant pricing his 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 July 8, 2009. Applicant served a notice of the application to the involved cities, counties, and public transit agencies.

In Resolution ALJ 176-3237 dated July 9, 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 176-3237.

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. Applicant currently operates an on-call airport shuttle service pursuant to D.08-10-028.
2. The application requests to expand Applicant's PSC authority to include scheduled service between the Cities of Santa Clara and Los Angeles.
3. Public convenience and necessity requires the proposed service.
4. Applicant requests authority to establish a ZORF of \$15 above and below the proposed one-way fare of \$79.
5. Applicant will compete with other PSCs, Amtrak, airlines, and private 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. 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. The certificate of public convenience and necessity (CPCN) granted to Kwang Weon Bae (Applicant), an individual, authorizing him 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-20458 of Decision 08-10-028, is revised by replacing Original Pages 2 and 3 with First Revised Pages 2 and 3, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of the revised 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. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$15 above and below the proposed one-way fare of \$79.
4. Applicant 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. Applicant 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, 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 30 days.
7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to 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 revised CPCN to operate as PSC-20458, 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 order is effective today.

Dated November 20, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

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

Kwang Weon Bae, 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" and 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. 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 in on-call service except those having a point of origin or destination at one of the airports described in Section IIB.
- D. Scheduled service shall be operated only at the points described in Section IIC. 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.
- E. 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, San Francisco, San Mateo, and Santa Clara.
- B. San Francisco International Airport (SFO).
Oakland International Airport (OAK).
San Jose International Airport (SJC).
- C. Points in the Cities of Santa Clara and Los Angeles.

SECTION III. ROUTE DESCRIPTION.

On-Call Service

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

Scheduled Service

Commencing from any point in the City of Santa Clara, then over the most convenient streets and highways to any point in the City of Los Angeles.