

Decision 10-09-032 September 23, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Cabanas Xpress, LLC, for passenger stage authority under Section 1031 et seq., of the California Public Utilities (PU) Code, to transport passengers and baggage express, on an on-call, county-to-county basis, between the counties of San Diego, Orange, Los Angeles, San Bernardino, Riverside, Kern, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento, on the one hand, and to establish a door-to-door shuttle service between points in Los Angeles, San Bernardino and Riverside counties, and the airports designated as LAX, ONT, LGB, Los Angeles/Long Beach Harbors, on the other hand; and to establish a Zone of Rate Freedom (ZORF) under Section 454.2, et seq., of the PU Code.

Application 10-06-015
(Filed June 14, 2010)

D E C I S I O N

Summary

This decision grants the application of Cabanas Xpress, LLC (Applicant), a limited liability company, 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 transport passengers, their baggage, and express¹ as a PSC. Applicant proposes as its primary service to provide on-call, “county-to-county” transportation between points in 12 counties.² A secondary operation will be a shuttle service between points in Los Angeles, San Bernardino, and Riverside Counties, on the one hand, and Los Angeles International (LAX), Ontario International (ONT), and Long Beach (LGB) Airports, and Los Angeles and Long Beach Harbors (HBRS), on the other hand. The customer base will be primarily Spanish speaking families, business people, and migrant workers whose need for competitive, licensed transportation service is not currently being met. According to Applicant, members of this community are particular about the type of transportation they use, and their choice of transportation provider is usually based on common language and price. Applicant’s owners belong to the community and have a clear understanding of its culture and transportation needs.

The services will operate daily, 24 hours per day. The county-to-county service will offer passengers the convenience of flexible pickup and drop-off points. The shuttle service will operate on a door-to-door basis. Operations will be conducted initially with fifteen 15-passenger vans. Vehicles will be added to the fleet as needed to meet passenger demand. Attached to the application as Exhibit D is an unaudited balance sheet for Applicant’s founding members

¹ Express shipments will be limited to packages and unaccompanied baggage weighing not more than 30 pounds per item.

² The counties to be served are San Diego, Orange, Los Angeles, San Bernardino, Riverside, Kern, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento.

which discloses assets of \$900,015, liabilities of \$154,000, and net worth of \$746,015. Applicant states that its owner-members will contribute any additional resources necessary to operate and ensure the viability of the service.

The proposed fares, as shown in Exhibit B of the application, range between \$10 and \$90 for the county-to-county service and between \$15 and \$280 for the door-to-door shuttle service.³ Applicant requests authority to establish a ZORF of \$5 above and below the proposed fares of \$20 and under, \$10 above and below the proposed fares greater than \$20 and less than \$40, and \$20 above and below the proposed fares of \$40 and over. The minimum fare will be \$5. Applicant will compete with other PSCs, public transit, taxicabs, 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 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 June 30, 2010. Applicant 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 copy of the application on every public transit operator operating in any portion of the service territory and 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 of the application to 12 cities and four counties, and mailed a copy of the application to the involved airports and four regional public transit operators. Applicant believes the Commission's Daily

³ The door-to-door shuttle fares are for a single adult passenger. Additional passengers traveling together pay a substantially reduced fare.

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 Applicant because it will be providing on-call service, not scheduled service, and service on every city, county, and public transit operator in the service territory would be burdensome.

In Resolution ALJ 176-3257 dated July 8, 2010, 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 176-3257.

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 requests authority to operate as an on-call PSC to transport passengers, their baggage, and express (a) between points in the Counties of San Diego, Orange, Los Angeles, San Bernardino, Riverside, Kern, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento, and (b) between points in the Counties of Los Angeles, San Bernardino, and Riverside, on the one hand, and LAX, ONT, LGB, and HBRS, on the other hand.

2. Applicant requests authority to establish a ZORF of \$5 above and below the proposed fares of \$20 and under, \$10 above and below the proposed fares greater than \$20 and less than \$40, and \$20 above and below the proposed fares

of \$40 and over, as shown in Exhibit B of the application. The minimum fare will be \$5.

3. Applicant will compete with other PSCs, public transit, taxicabs, charter vehicles, and private automobiles in its operations. The ZORF is fair and reasonable.

4. Applicant requests a waiver of the notice requirements of Rule 3.3(b) of the Rules of Practice and Procedure as it has served notice of the application to 12 cities and four counties, and mailed a copy of the application to the involved airports and four regional public transit operators.

5. Public convenience and necessity requires the proposed service.

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 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.

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 Cabanas Xpress, LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers, their baggage, and express between the points and over the routes set forth in Appendix PSC-26634, 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 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. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$5 above and below the proposed fares of \$20 and under, \$10 above and below the proposed fares greater than \$20 and less than \$40, and \$20 above and below the proposed fares of \$40 and over, as shown in Exhibit B of the application. The minimum fare will be \$5.

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. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety 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 CHP has approved the use of Applicant's vehicles for service.

7. 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.

8. The CPCN to operate as PSC-26634, granted herein, expires unless exercised within 120 days after the effective date of this decision.

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

10. The Application is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated September 23, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners

Commissioner John A. Bohn, being necessarily absent,
did not participate.

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-26634

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.

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

Cabanas Xpress, LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers, their baggage, and express 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 in door-to-door service 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 San Diego, Orange, Los Angeles, San Bernardino, Riverside, Kern, Fresno, Monterey, Santa Clara, San Francisco, Alameda, and Sacramento.

- B. Los Angeles International Airport
Ontario International Airport
Long Beach Airport
Los Angeles Harbor
Long Beach Harbor

SECTION III. ROUTE DESCRIPTION.

County-to-County Service

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

Door-to-Door Service

Commencing from any point in Los Angeles, San Bernardino, or Riverside County, then over the most convenient streets and highways to any point described in Section IIB.