Decision 10-11-016 November 19, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Muhammad Hassani, dba Sky the Limit for a Certificate of Public Convenience and Necessity to operate as an On-Call, Door-to-Door, Passenger Stage Service between the following Counties: Alameda, Contra Costa, Marin, Sonoma, Santa Clara, Solano, Napa and San Joaquin, and the following International Airports: San Francisco, San Jose and Oakland; and to establish a Zone of Rate Freedom.	Application 10-08-015 (Filed August 20, 2010)

D E C I S I O N

Summary

This decision grants the application of Muhammad Hassani (Applicant), an individual, 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, as supplemented by correspondence dated October 15, 2010, 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.[1] Applicant states 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.

Applicant has three years' experience as an airport shuttle driver. He was issued a charter-party carrier permit (TCP 26508-P) by the Commission in July 2010. Operations will be conducted initially with one 7-passenger van. Attached to the application as Exhibit E is Applicant's financial statement as of August 2, 2010, that discloses assets of $65,000, liabilities of $16,100, and net worth of $49,400.

The proposed fares, as described in Exhibit A of the application, range between $23 (San Bruno – SFO) and $180 (Calistoga - SJC). Applicant requests authority to establish a ZORF of $20 above and below the proposed fares. The minimum fare will be $15. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in his service area. This highly 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 August 25, 2010. Applicant requests a waiver from the provisions of

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[1] San Mateo County is included in the body of the application, but Applicant failed to list it in the application caption. Applicant listed San Francisco County, but it was inadvertently omitted from the caption at the time of initial filing of the application with the Commission's Docket Office.

Rule 3.3(b) of the Commission's Rules of Practice and Procedure which require 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. Applicant mailed a notice of the application to 66 cities and the transportation planning agency in the service area. He believes 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 Applicant because he 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 176-3260, dated September 2, 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 176-3260.

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. Applicant requests 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. Applicant will compete with other PSCs, taxicabs, charter limousines and sedans, public transit, and private automobiles in his operations. The ZORF is fair and reasonable.

5. Applicant requests a waiver of the notice requirements of Rule 3.3(b) of the Rules of Practice and Procedure as he has served a notice of the application to 66 cities and the transportation planning agency 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 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 Muhammad Hassani (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-26508, 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 $20 above and below the proposed fares described in the application. The minimum fare will be $15.

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 CPCN to operate as PSC-26508, 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 November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-26508

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 10-11-016, dated November 19, 2010, of the Public Utilities Commission of the State of California in Application 10-08-015.

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

Muhammad Hassani, 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" 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.