

Decision 03-07-022 July 10, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Mohammed Saeed dba Horizon Airporter for an extension of authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Solano, and Napa Counties and the San Francisco, Oakland and San Jose International Airports and to establish a Zone of Rate Freedom.

Application 03-05-008
(Filed May 5, 2003)

O P I N I O N

Summary

This decision grants the application of Mohammed Saeed (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., for an extension of 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 currently is authorized to transport passengers and their baggage, pursuant to Decision (D.) 00-12-016, between the Counties of Alameda, Contra Costa, and San Francisco, and the Cities of Benicia, Vallejo, and American Canyon, on the one hand, and Oakland International Airport (OAK), on the other hand.

Applicant requests authority to extend his PSC certificate to include San Francisco (SFO) and San Jose (SJC) International Airports, and all points in Solano and Napa Counties. Applicant states that since obtaining his PSC

authority in 2000 there has been growing demand for airport shuttle service to and from the proposed extended points. Additionally, he receives requests for service from points in Solano and Napa Counties that are not within the city boundaries of Vallejo, Benicia and American Canyon. Exhibit E of the application is an unaudited balance sheet as of April 30, 2003, that discloses assets of \$238,000, liabilities of \$45,000 and net worth of \$193,000.

Exhibit C of the application contains proposed fares for the extended service points. Applicant requests authority to establish a ZORF of \$10 above and below any existing or proposed fare of \$20 and under, and \$20 above and below any existing or proposed fare of \$21 and above. The minimum fare will be \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and 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 May 8, 2003. Applicant requests a waiver from the provisions of Rule 21 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. Applicant served a notice to the five involved counties, 18 cities, the affected airports and public transit operators in the service area. Applicant states 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, and service on all cities in the service territory would be burdensome.

In Resolution ALJ 176-3112 dated May 8, 2003, 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 176-3112.

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 is operating as a PSC between the Counties of Alameda, Contra Costa, and San Francisco, and the Cities of Benicia, Vallejo, and American Canyon, on the one hand, and OAK, on the other hand.
2. The application requests authority to extend the PSC to include service to SFO and SJC, and all points in Napa and Solano Counties.
3. Public convenience and necessity requires the proposed service.
4. Applicant requests authority to establish a ZORF of \$10 above and below any existing or proposed fare of \$20 and under, and \$20 above and below any existing or proposed fare of \$21 and above. The minimum fare will be \$5.
5. Applicant will compete with PSCs, taxicabs, limousines, buses, and automobiles in his operations. The ZORF is fair and reasonable.
6. Applicant requests a waiver of the notice requirements of Rule 21 of the Rules of Practice and Procedure as he has served notice to five counties, 18 cities, the affected airports and public transit operators in the service area.
7. No protest to the application has been filed.

8. A public hearing is not necessary.

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 should be granted.

2. The request to waive the notice requirements of Rule 21 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.

6. 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 Mohammed Saeed (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-13550 of Decision 00-12-016, 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 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 Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$10 above and below any existing or proposed fare of \$20 and under, and \$20 above and below any existing or proposed fare of \$21 and above. 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 order.

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-13550, 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 is granted as set forth above.

12. This proceeding is closed.

This order is effective today.

Dated July 10, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

SECTION II. SERVICE AREA.

- A. Points and places in the Counties of San Francisco, Alameda, Contra Costa, *Solano, and *Napa.
- B. *San Francisco International Airport.
Oakland International Airport.
*San Jose International Airport.

SECTION III. ROUTE DESCRIPTION.

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