

Decision 07-09-027 September 20, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Transportes Ejecutivos De Occidente, Inc. for authority to operate as a scheduled passenger stage corporation between points in Los Angeles County, San Diego County, and cities being Los Angeles, Huntington Park, Santa Ana, San Ysidro; points between Los Angeles County and Kern County, cities being Lamont, Bakersfield, Huron, Hanford, Delano, Pixley, Porterville, Lindsay, Visalia, Tulare, Goshen, Dinuba, Parlier, Selma, Fresno, Madera, Chowchilla, Merced, Livingston, Turlock, Atwater, Modesto, Stockton, Lodi and Sacramento, and to establish a Zone of Rate Freedom.

Application 06-08-030
(Filed August 28, 2006)

O P I N I O N

Summary

This decision grants the application of Transportes Ejecutivos De Occidente, Inc. (Applicant), a corporation, 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 amended by letter dated May 25, 2007, requests authority to operate as a scheduled PSC to transport passengers and their baggage over two routes: (1) between the United States – Mexico border crossing

at San Ysidro and Los Angeles, stopping at the intermediate points of Santa Ana and Huntington Park; and (2) between Los Angeles and Sacramento, serving intermediate points. The customer base will be primarily Spanish-speaking passengers. Applicant already operates bus services in interstate and foreign commerce and reports that it regularly receives requests from passengers to provide intrastate service over the routes involved in this application. Applicant predicts that demand for the type of service proposed will continue to increase.

Applicant indicates that it has the ability to conduct the service. It states that its fleet will consist of six 47-passenger buses that meet all federal and state safety standards, and that its drivers are well qualified to operate this equipment. Attached to the application as Exhibit F is Applicant's unaudited balance sheet as of May 31, 2006, that discloses assets of \$246,200, liabilities of \$15,000, and net worth of \$231,200.

The proposed one-way adult fare for route (1) is \$16. The proposed fares for route (2) range between \$18 (L.A. - Bakersfield) and \$47 (L.A. - Sacramento). Applicant requests authority to establish a ZORF of 25% above and below the proposed fares. On route (1) it will compete with on-call and scheduled PSCs, Amtrak, charter vehicles, and private automobiles. The primary competitors on route (2) will be Greyhound and Amtrak. This level of competition 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 September 7, 2006. Applicant served notice of the application to the involved cities, counties, and transit agencies in the service territory.

In Resolution ALJ 176-3178 dated September 7, 2006, 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 176-3178.

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, as amended, requests authority to operate as a scheduled PSC to transport passengers and their baggage between (1) San Ysidro and Los Angeles and (2) between Los Angeles and Sacramento.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of 25% above and below the proposed fares shown in the application.
4. Applicant will compete with other PSCs, Amtrak, charter vehicles, and private automobiles in its operations. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. 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, as amended, 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.

5. 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. A certificate of public convenience and necessity (CPCN) is granted to Transportes Ejecutivos De Occidente, Inc. (Applicant), a corporation, authorizing it 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-20373, 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 Vehicle Code § 1808.1.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of 25% above and below the proposed fares shown in the application.

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 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. 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.

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-20373, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated September 20, 2007, 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-20373

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.

Transportes Ejecutivos De Occidente, 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 a 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. Service will be operated only at the points described in Section II and over the routes described in Section III. 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.
- C. 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. San Ysidro (City of San Diego), Santa Ana, Huntington Park, and Los Angeles.
- B. Los Angeles, Lamont, Bakersfield, Delano, Earlimart, Pixley, Porterville, Lindsay, Visalia, Huron, Hanford, Tulare, Goshen, Dinuba, Parlier, Selma, Fresno, Kerman, Madera, Chowchilla, Merced, Livingston, Atwater, Turlock, Modesto, Stockton, Lodi, and Sacramento.

SECTION III. ROUTE DESCRIPTION.

- (1) Commencing from San Ysidro, then over the most convenient streets and highways to Huntington Park, Santa Ana, and Los Angeles.
- (2) Commencing from Los Angeles, then over the most convenient streets and highways to Lamont/Bakersfield, then via the other points named in Section IIB to Sacramento.