

Decision 08-11-015 November 6, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Jose Ricardo Espinoza Espinoza, doing business as Inter for a Certificate of Public Convenience and Necessity for authority to operate as a Scheduled Passenger Stage Corporation between various points in the Counties of Santa Clara and San Diego over and along any route, subject to the authority of the Commission; and to establish a Zone of Rate Freedom.

Application 08-06-033
(Filed June 30, 2008)

D E C I S I O N

Summary

This decision grants the application of Jose Ricardo Espinoza Espinoza, (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 amended by letter dated September 22, 2008, requests authority to operate as a scheduled PSC to transport passengers and their baggage between San Jose and San Ysidro (a community within the City of San Diego adjacent to the U.S.-Mexico border). Applicant indicates there is a need for convenient bus travel between these points to fill a gap that currently exists. His service will differ from other bus services by operating nonstop. Applicant also explains that to travel by air to the northern states of Mexico passengers

have to fly to central Mexico and then fly back to their northern destinations inside Mexico, or fly to San Diego International Airport and then make their way to the San Ysidro border crossing. He believes his service will be a viable alternative to air travel because it will take passengers directly to the border.

The initial schedule will be one service per day in each direction. Applicant will operate a 2008 Dodge Sprinter, a 12-passenger vehicle equipped with many convenience features.

Applicant states he has the knowledge and ability to operate the proposed service. He has been employed for the last sixteen years as a Transportation Supervisor with a local transportation agency and is familiar with the safety laws and regulations that apply to this type of operation. Attached to the application as Exhibit E is Applicant's financial statement as of June 26, 2008, which discloses assets of \$1,625,000, liabilities of \$465,000, and net worth of \$1,160,000.

The proposed one-way fare is \$99. Applicant requests authority to establish a ZORF of \$25 above and below this fare. He will compete with other PSCs (including Greyhound), Amtrak, airlines, and private automobiles his service area. This level of competition 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 10, 2008. Applicant served notice of the application to the involved counties and cities, and the public transit operators in the service area.

In Resolution ALJ 176-3217 dated July 10, 2008, 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 176-3217.

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 a scheduled PSC to transport passengers and their baggage between San Jose and San Ysidro.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of \$25 above and below the proposed fare of \$99.
4. Applicant will compete with other PSCs, airlines, Amtrak, and private automobiles in his 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 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. A certificate of public convenience and necessity (CPCN) is granted to Jose Ricardo Espinoza Espinoza (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-24006, 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 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 fare of \$99.
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-24006, granted herein, expires unless exercised within 120 days after the effective date of this decision.
10. The Application, as amended, is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated November 6, 2008, 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-24006

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.

Jose Ricardo Espinoza Espinoza, 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 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 shall be operated only at the points described in Section II. 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)
- B. San Jose

SECTION III. ROUTE DESCRIPTION.

Commencing from San Ysidro, then over the most convenient streets and highways to San Jose.