

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 1, 2003

Agenda ID #2549
Ratesetting

TO: PARTIES OF RECORD IN APPLICATION (A.) 92-07-054 AND A.03-02-017

This is the draft decision of Administrative Law Judge (ALJ) Rosenthal. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:sid

Attachment

Decision **DRAFT DECISION OF ALJ ROSENTHAL** (Mailed 8/1/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Michael S. Mitchell, Bruce P. Hector, Mickey's Space Ship Shuttle for a certificate of public convenience and necessity to operate as a passenger stage service between certain portions of Los Angeles County and Orange County and Los Angeles International Airport (LAX) and John Wayne Orange County Airport.

Application 92-07-054
(Filed July 23, 1992)

In the Matter of the Application of Mickey's Space Ship Shuttle (PSC 5244) to modify its fare structure and establish a Zone of Rate Freedom for passenger stage service between certain points of Orange County on one hand and LAX and SNA on the other hand.

Application 03-02-017
(Filed February 14, 2003)

OPINION**Summary**

Application (A.) 03-02-017 and the Petition for Modification of Decision (D.) 00-06-073, both filed by Mickey's Space Ship Shuttle (MSSS), are dismissed.

Background

MSSS was awarded a passenger stage certificate pursuant to D.00-06-073 authorizing airport shuttle service between points in Los Angeles County, on the one hand, and Los Angeles International Airport and John Wayne International Airport, on the other hand. The decision directed MSSS to

initiate service within two years. For various reasons, MSSS did not begin service within the two years and requested various informal time extensions.

In A.03-02-017, filed February 14, 2003, MSSS requested a Zone of Rate Freedom (ZORF) tariff be authorized, though it had yet to initiate service. On April 21, 2003, MSSS filed a Petition for Modification of D.00-06-073, seeking an additional two-year time extension to initiate service. MSSS had no tariff on file at the time. On May 9, 2003, MSSS filed an amendment to the petition requesting the extension of time to initiate service be granted indefinitely and also filed a proposed tariff and timetable of rates. A.03-02-017 and the Petition for Modification of D.00-06-073 are closely related and we have consolidated them here for determination.

In May 2003, MSSS initiated service, with one vehicle, serving Los Angeles International Airport and John Wayne International Airport. MSSS filed a tariff for this service, as noted above, with an effective date of May 7, 2003. The service initiation and the tariff filing were both confirmed by records on file with the Commission's Consumer Protection and Safety Division (CPSD).

Discussion

The request for an extension of time to initiate service is now moot. The request for a ZORF tariff is outdated in that MSSS has an active tariff on file with the Commission and that the ZORF request involved more than one vehicle type. In view of the above, we are dismissing A.03-02-017 and the Petition for Modification of D.00-06-073. If MSSS wishes to further amend its tariffs or scope of authority, it should contact CPSD staff for guidance.

Categorization

The Petition for Modification appeared on the Commission's Daily Calendar on April 25, 2003. It was amended on May 9, 2003.

The Application appeared on the Commission's Daily Calendar on February 18, 2003. In Resolution ALJ 176-3108, dated February 27, 2003, the Commission preliminarily categorized the application as ratesetting and preliminarily determined that no hearings were required. These determinations are affirmed.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

The petition for modification is assigned to Commissioner Susan P. Kennedy. The application is assigned to Commissioner Geoffrey F. Brown. Administrative Law Judge Sheldon Rosenthal is assigned to both matters.

Findings of Fact

1. Since 2000, MSSS has held authority from this Commission to operate as a passenger stage corporation.
2. For various reasons, MSSS did not commence service until May 2003.
3. MSSS filed a tariff for these operations effective May 7, 2003.

Conclusions of Law

1. MSSS's Petition for Modification of D.00-06-073 to allow for an extension of time to commence operations should be dismissed as moot.
2. Other matters requested in the petition for modification should also be dismissed.
3. The ZORF requested in A.03-02-017 should be dismissed as out of date.

O R D E R

IT IS ORDERED that:

1. Application 03-02-017 for a zone of rate freedom is dismissed.
2. The Petition for Modification of Decision 00-06-073, filed April 21, 2003 and amended on May 9, 2003, to extend the time for commencing service is dismissed, and all other relief sought by the Petition for Modification is denied.

This order is effective today.

Dated _____, at San Francisco, California.