

Decision 12-04-014 April 19, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Ace Xpress Charter, dba Ace Tours, for authority to operate as a passenger stage corporation between points in the City and County of San Francisco and points in Amador, Butte, Colusa, El Dorado, Lake, Mendocino, Placer, Sonoma, Tuolumne, and Yolo Counties and to Establish a Zone of Rate Freedom.

Application 11-10-018
(Filed October 17, 2011)

D E C I S I O N

Summary

This decision grants the application of Ace Xpress Charter (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 supplemented by a letter dated February 20, 2012, requests authority to operate as a scheduled PSC to transport passengers and their baggage between San Francisco, on the one hand, and 12 casinos located in Amador, Butte, Colusa, El Dorado, Lake, Mendocino, Placer, Sonoma, Tuolumne, and Yolo Counties, on the other hand. Applicant has been providing senior, social, and business organizations, companies and groups with transportation to these points as a charter-party carrier. It reports receiving requests from

individuals for single fare passenger transportation to the various casinos. Applicant indicates that many of the passengers desiring to use a single fare service are senior citizens 55 years of age and older. Some of these riders are physically handicapped and this entertainment is an important part of their lives. The proposed single fare service will enable passengers to travel to the casinos by bus without having to be part of an organized group.

Applicant believes the public will benefit from the proposed service as an alternative to casino patrons driving their private vehicles. Many of the routes to these casinos are constantly subject to traffic jams and congestion, and the full-size buses used by Applicant will aid in reducing this problem.

Applicant states that its management is experienced in providing transportation services for the traveling public to and from points in the involved service area for over 25 years. In these capacities, the management has gained extensive knowledge concerning the public's requirements and the types of problems encountered in providing a service of this kind. Applicant operates a fleet of six motorcoaches. The unaudited balance sheet submitted with its February 22, 2012, letter discloses assets of \$340,000, liabilities of \$7,500, and net worth of \$332,500.

The proposed round-trip fares are \$15 from San Francisco to one casino, \$20 to two casinos, and \$30 to three casinos (which travel must be completed in two days). Applicant requests authority to establish a ZORF of \$7.50 above and below fares up to \$15, \$10 above and below fares over \$15 but not more than \$40, and \$20 above and below fares over \$40. It states that competing transportation services are available from other PSCs and charter bus, limousine, and van services, as well as private and rental automobiles. This competitive environment 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 October 19, 2011. Rule 3.3(b) of the Commission's Rules of Practice and Procedure requires service of a copy of the application on every public transit operator operating in any portion of the service territory and 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 involved counties. It states that none of the casinos are located within a city, and the service will not be in competition with or have any effect upon an existing public transportation system. Applicant believes the Commission's Daily Calendar provides adequate notice to parties that may have an interest in the application. It requests a waiver from Rule 3.3(b) in the event the notice it provided may be deficient. In the circumstances, we agree that there was sufficient notice of the application to parties who may have an interest in this proceeding. We will grant Applicant's request.

In Resolution ALJ 176-3283 dated October 20, 2011, 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 176-3283.

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

Michelle Cooke 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 Francisco, on the one hand, and casinos located in Amador, Butte, Colusa, El Dorado, Lake, Mendocino, Placer, Sonoma, Tuolumne, and Yolo Counties, on the other hand.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of \$7.50 above and below fares of \$15 or less, \$10 above and below fares over \$15 but not more than \$40, and \$20 above and below fares over \$40.
4. Applicant will compete with other PSCs, charter vehicles, and private and rental automobiles in its 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 it has served a notice of the application to the involved counties.
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 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 Ace Xpress Charter, 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-23281, 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 \$7.50 above and below fares of \$15 or less, \$10 above and below fares over \$15 and not more than \$40, and \$20 above and below fares over \$40.
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 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-23281, 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 parties that may have an interest in this proceeding have received notice of the application.

11. The Application is granted as set forth above.

12. This proceeding is closed.

This decision is effective today.

Dated April 19, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-23281

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.

Ace Xpress Charter, 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 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 AREAS.

- A. City and County of San Francisco
- B. Casinos located in the Counties of Amador, Butte, Colusa, El Dorado, Lake, Mendocino, Placer, Sonoma, Tuolumne, and Yolo.

SECTION III. ROUTE DESCRIPTIONS.

Commencing from San Francisco, then over the most convenient streets and highways to any point named in Section IIB.