

Decision 12-05-027 May 24, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Tufesa USA LLC for authority (1) to operate as a scheduled passenger stage corporation between Blythe, CA and Sacramento CA; Blythe, CA and San Jose, CA; Primm, NV and Otay Mesa, CA; Huntington Park, CA and Otay Mesa, CA; Huntington Park, CA and Otay Mesa, CA (via Temecula, CA); Primm, NV and Calexico, CA; Yuma, AZ and San Ysidro, CA; Blythe, CA and Huntington Park, CA; Primm, NV and Huntington Park, CA; and Primm, NV and San Fernando Valley, CA and (2) establish a Zone of Rate Freedom.

Application 12-01-004
(Filed January 6, 2012)

D E C I S I O N

Summary

This decision grants the application of Tufesa USA, L.L.C. (Applicant), an Arizona limited liability company, 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 correspondence dated March 15 and April 26, 2012, requests authority to operate as a PSC to transport passengers and their baggage on a scheduled basis over ten routes. Several of the routes are a continuation of services that originate in Primm, Nevada or Yuma, Arizona. Applicant will provide intrastate service on the portions of these routes that are

within California. Most of the intrastate services will be between Southern California points, but two will operate from Southern California to San Jose and Sacramento.

Applicant states there is a need for the proposed service. The projected number of passengers is 60 passengers per day per route for the first six months and 120 passengers per day per route following 12 months of service. Passengers will be transported in state-of-the-art coaches, equipped with curtains, leg rests, reclining seats that have adequate leg room, and at least one restroom.

Applicant advises that it has the knowledge and ability to operate a PSC service. It currently conducts interstate bus services under an operating certificate issued by the Federal Motor Carrier Safety Administration (MC-482507). It is affiliated with a Mexican company, Autotransportes Tufesa, S.A. de C.V, which began providing bus service in Mexico in 1994. While they are separate, distinct legal entities, the two companies have common owners and thus, according to Applicant, have a depth of experience capable of providing satisfactory PSC service to the public. An unaudited balance sheet dated July 2011, as clarified in the March 15, 2012, supplemental correspondence, discloses adequate financial resources to conduct the proposed services. Exhibit H of the application is Applicant's equipment statement, which lists 62 buses.

The proposed one-way adult fares range between \$10 (Huntington Park – Santa Ana) and \$102 (Blythe – Sacramento). Discounted fares will be available to children, students, and seniors and a 10% discount will apply to round-trip fares. Applicant requests authority to establish a ZORF of 40% above and below the proposed fares. It will compete with other PSCs, charter vehicles, taxicabs, public transit and private automobiles in its service areas. 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 January 11, 2012. Applicant served a copy of the application to the public transit operators in the service area and sent a notice of the application to the affected cities, counties, airports, and regional planning agencies.

In Resolution ALJ 176-3287 dated January 12, 2012, 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 176-3287.

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 over ten routes.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of 40% above and below the proposed fares described in the application.
4. Applicant will compete with other PSCs, charter vehicles, taxicabs, public transit, 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 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 Tufesa USA, L.L.C. (Applicant), an Arizona limited liability company, 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-28876, 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 and timetables 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 40% above and below the fares described 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 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-28876, granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This decision is effective today.

Dated May 24, 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-28876

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.

Tufesa USA, L.L.C., an Arizona limited liability company, 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 and over the routes described in Section II, 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. Service may be operated over the most convenient streets and highways.
- D. Routes may be joined at common service points.
- E. 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. ROUTE DESCRIPTIONS.

Route 1 - Blythe/Sacramento

Commencing from Blythe, then to Sacramento via Indio, Colton, Ontario, East Los Angeles, Downtown Los Angeles, Huntington Park, Bakersfield, Fresno, Merced, Modesto, and Stockton.

Route 2 - Blythe/San Jose

Commencing from Blythe, then to San Jose via Indio, Colton, Ontario, East Los Angeles, Downtown Los Angeles, Huntington Park, Bakersfield, Fresno, Merced, Los Banos, and Gilroy.

Route 3 - Barstow/Otay Mesa [Originating in Primm, NV]

Commencing from Barstow, then to Otay Mesa via Victorville, Colton, Perris, Temecula, Escondido, and San Ysidro. [Interstate service originates in Primm, NV.]

Route 4 - Huntington Park/Otay Mesa [Via Oceanside]

Commencing from Huntington Park, then to Otay Mesa via East Los Angeles, Downtown Los Angeles, Santa Ana, Oceanside, and San Ysidro.

Route 5 - Otay Mesa/Huntington Park [Via Temecula]

Commencing from Huntington Park, then to Otay Mesa via East Los Angeles, Downtown Los Angeles, Ontario, Colton, Moreno Valley, Perris, Temecula, and Escondido.

Route 6 - Barstow/Calexico [Originating in Primm, NV]

Commencing from Barstow, then to Calexico via Victorville, Colton, Indio, Coachella, Brawley, and El Centro. [Interstate service originates in Primm, NV.]

Route 7 - El Centro/San Ysidro [Originating in Yuma, AZ]

Commencing from El Centro, then to San Ysidro via El Cajon and San Diego. [Interstate service originates in Yuma, AZ.]

SECTION II. ROUTE DESCRIPTIONS (Concluded).

Route 8 – Blythe/Huntington Park

Commencing from Blythe, then to Huntington Park via Indio, Colton, Ontario, East Los Angeles, and Downtown Los Angeles.

Route 9 – Colton/Huntington Park [Originating in Las Vegas, NV]

Commencing from Colton, then to Huntington Park via Ontario, East Los Angeles, and Downtown Los Angeles. [Interstate service originates in Las Vegas, NV.]

Route 10 – Barstow/San Fernando Valley [Originating in Primm, NV]

Commencing from Barstow, then to the San Fernando Valley (Cities of San Fernando and Los Angeles) via Victorville, Colton, Ontario, East Los Angeles, Downtown Los Angeles, and Huntington Park. [Interstate service originates in Primm, NV.]