

Decision No. 37376

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of W. PAUL BUTLER, doing business under the firm name and style of RIVERSIDE RAPID TRANSIT LINES, For a certificate of Public Convenience and Necessity to operate an automotive stage service for the transportation of passengers and baggage between the United States Navy Hospital at Norco, California to Los Angeles, via Hamner Avenue in Riverside County to U.S. Highway No. 60 in San Bernardino County, to Los Angeles via U.S. Highway No. 60 to 6th and San Julian Streets, Los Angeles, California.

ORIGINAL

) Application No. 26037
) First Supplemental

In the Matter of the Application of MARIO PASTRONE, doing business as Victory Transit Co., for certificate of public convenience and necessity to operate bus service as a common carrier between Pomona and Norco by way of Ontario.

) Application No. 26260

Herbert Cameron, Los Angeles, for applicant in Application No. 26037, 1st Supp., protestant to Application No. 26260

Allard & Whyte, by James G. Whyte, Pomona, for applicant in Application No. 26260; protestant in Application No. 26037 (1st Supp.)

R. O. Christiansen, Los Angeles, for Pacific Electric Railway Company, interested party

Mrs. Myrtle Crocheron, Commander Navy Mothers' Club No. 444, Pomona, interested party

O. E. Persons, Vice-Chairman, City Council of Pomona, interested party

Jesse P. Edmonds, President, Chamber of Commerce of Pomona, interested party

BY THE COMMISSION:

O P I N I O N

W. Paul Butler, operating as Riverside Rapid Transit Lines, and Mario Pastrone, doing business as Victory Transit Company, by their respective applications request authority to

operate a passenger stage service from the United States naval hospital at Norco to the cities of Ontario and Pomona.

The two matters were consolidated for hearing which was held August 10, 1944, at Pomona, before Examiner Chiesa. Evidence having been adduced and the matters submitted, they are now ready for decision.

Both applicants are now operating as "passenger stage corporations" with authority from this Commission.

Butler now operates from the naval hospital at Norco to Corona and Riverside (Decision No. 35514), and from said hospital to Los Angeles via U. S. Highway No. 60, passing through but not serving the cities of Ontario and Pomona (Decision No. 37113). This latter right is limited to the transportation of military personnel and government employees stationed or employed at the Norco naval hospital and no service may be rendered to, from or between any points intermediate to the said termini. Butler has other operative rights not material to the consideration of the present application in view of his testimony that he has sufficient equipment to enable him to conduct present and proposed operations. He is now operating between Norco and Los Angeles, on a scheduled run, on Wednesdays and Saturdays. In his application he seeks the right to perform a daily "on call" service on this route with the privilege of serving the cities of Ontario and Pomona and transporting to and from said cities and the hospital civilians as well as military personnel and government employees.¹ He does

¹ Butler testified that in view of the present policy of the Office of Defense Transportation it may be necessary to continue his present schedule which is as follows:

<u>Norco to Los Angeles</u>	<u>Los Angeles to Norco</u>
Wednesday	Thursday
Lv. Norco 4:45 P.M.	Lv. Los Angeles 1:30 A.M.
Saturday	Sunday
Lv. Norco 11:30 A.M. to 1:00 P.M.	Lv. Los Angeles 11:30 P.M. to
(sections when required)	1:00 A.M.
	(sections when required)

not propose an intermediate service and does not seek to enlarge his present rights to Los Angeles for the transportation of civilians. We shall consider his present application as a request for a modification of the certificate granted by Decision No. 37113 on Application No. 26037.

Pastrone's operations are centered in the city of Pomona and include a bus line operation between Pomona and La Verne to the northwest (Decision No. 36604), and an "on call" service between Pomona and the naval hospital at Spadra (Decision No. 36516), approximately eight miles west of said city. The record shows that he has sufficient equipment to operate his present and proposed services. Norco is approximately twenty miles southeast of Pomona. Pastrone does not now operate in this direction but he urges that in view of his present operation from Pomona to the Spadra hospital he could, if permitted, coordinate a service between the two establishments as suggested to him by naval authorities. This applicant proposes a twice-weekly schedule² but testified that he would establish and maintain a daily service if a need for such service is indicated.

At the hearing both applicants offered evidence as to the need for the proposed service and it was stipulated by them that the testimony on this point could be considered in support of either application. The mayor, the president and the acting secretary of the Chamber of Commerce, the editor of the newspaper, and an officer of the Navy Mothers' Club, all of the city of Pomona, testified that a need exists for a passenger service to enable military personnel and their relatives and employees to travel between said points. The acting secretary of the chamber

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Pomona to Norco
 Monday and Thursday
 Lv. Pomona 2:30 A.M.
 Lv. Ontario 2:45 A.M.

Norco to Pomona
 Wednesday
 Lv. Norco 4:30 P.M.
 Saturday
 Lv. Norco 11:30 A.M.

of commerce testified that an average of about 200 families residing in Pomona and vicinity have relatives who are patients at the hospital. The medical officer in command of the hospital, in a letter which was offered in evidence, states that several hundred persons (patients and staff) require transportation to and from Ontario and Pomona; that the need for this service is particularly acute on Wednesdays, Saturdays, Sundays and Mondays; and that there are no public transportation facilities available.

Although applicants would use somewhat different routes in performing this service, the distances are practically the same, approximately 20 miles. Butler proposes to charge a one-way fare of forty-five cents between Norco hospital and Ontario and sixty cents between said hospital and Pomona, with no reduced round-trip fares. Pastrone proposes fares of fifty cents to Ontario and sixty cents to Pomona with no reduced round-trip fares. As hereinabove indicated, both applicants have sufficient equipment of the type required for the service; the evidence indicates, however, that both applicants would require additional allotments of gasoline and tires to adequately perform this service.

Considering the whole record in these proceedings, we are of the opinion and find that a public need exists for the establishment and operation of the service as proposed by each of the applicants and the applications will be granted.

W. Paul Butler and Mario Pastrone are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the state as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect

limited to the number of rights which may be given.

O R D E R

A public hearing having been held in the above-entitled proceedings, the matters having been submitted upon the record therein and based upon the findings and conclusions in the foregoing opinion that public convenience and necessity so require;

IT IS ORDERED as follows:

I

That ordering Paragraph (1) of the order in Decision No. 37113 is hereby amended to read as follows:

"(1) That a certificate of public convenience and necessity is hereby granted to W. Paul Butler authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, for the transportation of passengers and baggage between the United States Naval Hospital at Norco, on the one hand, and Ontario, Pomona, and Los Angeles, on the other hand, subject to the following restrictions:

Between the United States Naval Hospital at Norco and Los Angeles, service shall be limited to the transportation of military personnel and government employees stationed or employed at said hospital.

"(2) That said Decision No. 37113 shall in all other respects remain in full force and effect."

II

(1) That a certificate of public convenience and necessity be and it is hereby granted to Mario Pastrone, authorizing the establishment and operation of service as a passenger stage corporation, as that term is defined in Section 2½ of the Public Utilities Act, between the United States Naval Hospital at Norco, on the one hand, and the cities of Ontario and Pomona, on the other hand.

(2) That in the operation of service pursuant to the foregoing certificate, Mario Pastrone shall comply with and observe the following service regulations:

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
- (b) Applicant shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.
- (c) Subject to the authority of this Commission to change or modify it at any time by further order, applicant shall conduct said passenger stage service over and along the following route:

Beginning at 205 North Carey Avenue in Pomona, thence along Carey Avenue, Fifth Avenue, Euclid Avenue to A Street (Ontario), thence south along Euclid Avenue, thence Riverside Drive, Adams Avenue, Hamner Avenue, thence to the terminus at the United States Naval Hospital at Norco.

The effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 3rd day of October, 1944.

Justus J. Casper
Francis L. Havenner

Irving F. Russell
COMMISSIONERS