

Decision No. 37975

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CELINE CUMMINGS, doing business as)
A B C TAXI CO., for a certificate of)
public convenience and necessity to)
operate an automotive stage service)
for the transportation of passengers)
and baggage between El Monte and)
certain adjacent points located with-)
in the County of Los Angeles, State of)
California.)

ORIGINAL

Application No. 24193

HERBERT CAMERON, for applicant.

WALLACE L. WARE, for San Diego Yellow Cabs, Inc.,
Black & White Taxi, Wilmington Cab Company,
Southwest Transportation Co., Inc., Southeast
Taxi Company, Yellow Cab Company of Long Beach,
and Dime'n Cabs, protestants.

J. L. RONNOW, for Yellow Cab Company of California,
interested party.

H. W. STEWARD, for Tanner Motor Liver, interested
party.

PHIL JACOBSON, for Joseph K. Hawkins, doing business
as El Monte Taxi, interested party.

BY THE COMMISSION:

O P I N I O N

On October 3, 1944, this Commission issued an order in
the above-entitled matter, reopening the proceeding for further
hearing. The order is, in part, as follows:

"Good cause appearing,

"IT IS ORDERED as follows:

"(1) That Application No. 24193 be and it is hereby
reopened for the purpose of determining whether Decision
No. 35191, rendered herein March 31, 1942, should be re-
scinded, altered or amended because of non-compliance
with service regulation numbered 3 on sheet seven of said
decision, or for the reason that applicant's operations
may not have been or may not now be those of a 'passenger
stage corporation' within the meaning of the Public
Utilities Act."

A certified copy of said order having been served upon Celine Cummings a hearing was held at Los Angeles on November 30, 1944, before Examiner Chiesa. Additional evidence having been adduced the reopened matter was submitted.

Although applicant, Celine Cummings, was not present at the hearing, she was represented by counsel and by her husband, R. L. Britton, who is also the general manager of her business, which she operates under the name of A B C Taxi Co. Britton has been general manager of said business for the past five years and, according to his testimony, is familiar with the proceedings wherein Application No. 24193 was filed, pursuant to which Decision No. 35191 was issued.

Following the original hearing on this application the Commission issued Decision No. 35191 which authorized the establishment and operation by Celine Cummings of a service as a passenger stage corporation, as defined in Section 24 of the Public Utilities Act, for the transportation of passengers and their baggage between three described areas, and between each of said areas and the city of El Monte, subject to certain restrictions.

The record in the reopened proceeding clearly shows that applicant has not been operating as a "passenger stage corporation" within the meaning of the Public Utilities Act.

Applicant's operation is the usual small city taxi service, with a now somewhat customary variation in the manner of charging fares when carrying two or more passengers not members of the same party or riding group. Applicant's principal place of business is in the city of El Monte where she maintains three

stands and operates four 5-passenger sedans. Applicant's business usually originates through prospective passengers contacting drivers by telephone or signal or by going to one of the stands. Transportation service is rendered within a specified area whenever and wherever the passenger desires. The point of origin, route, and destination depend upon the rider's wishes. Exhibit No. 3, offered by applicant, consisting of three maps showing the number and destinations of trips during specified periods in July, August and October of 1944, clearly negatives applicant's contention that the operation is that of a passenger stage corporation conducted between fixed termini or over regular routes. As applicant's business is centered in the city of El Monte and serves the immediate vicinity, it is not surprising that her vehicles are using some streets and highways more than others. Nevertheless, it is the indeterminate time and place of origin and destination of each trip, with the consequent use of any or all streets and highways in the community, which distinguishes applicant's service from that of a passenger stage operation. Although several routes were designated in applicant's certificate, the record shows that operations are conducted over any street or highway which accords with the demands and approval of the passengers. It was also shown that applicant is not operating between fixed termini but rather is operating everywhere, between any two or more points, within one single area composed of the city of El Monte and the immediately contiguous territory.

Applicant contends that as passengers are charged on an individual fare basis, it must be presumed that the operation is that of a passenger stage corporation within the meaning of the Public Utilities Act. The charging of individual fares is but one of several attributes of a passenger stage operation and there is

substantial evidence in this proceeding which rebuts such presumption. Moreover, the record shows that applicant's manner of computing and collecting fares is not restricted to an individual fare basis.

Upon reconsideration of this reopened proceeding, we find that applicant's operation is not that of a "passenger stage corporation" within the meaning of the Public Utilities Act. It follows that the 1942 order issuing a certificate for such operation should be revoked.

The record in the reopened proceeding also shows that applicant has failed to make a proper filing of tariffs and time schedules, as directed by service regulation numbered 3 of the order of March 31, 1942, although additional time for such filing was granted by the Commission.

O R D E R

The above-entitled matter having been reopened for further hearing and duly submitted, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED that Decision No. 35191 be and it is hereby rescinded, and Application No. 24193 is hereby dismissed.

The Secretary is directed to cause personal service of a certified copy of this order to be made upon Celine Cummings,

and this order shall become effective upon the twentieth (20th) day after the date of such service.

Dated at San Francisco, California, this 12th day of June, 1945.

Harold Rubin
Justice S. C. Cullen
Richard L. Baker
Frank W. C. W.
James H. L. L.
COMMISSIONERS