

Decision No. 38288

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
MARIO LUCIDO, an individual doing )	
business under the name of MARIO'S )	
SERVICE, for certificate of public )	
convenience to operate passenger )	Application No. 25553
service between City of Pittsburg )	Second Supplemental
(399 Black Diamond Street) and Camp )	
Stoneman and Pittsburg Replacement )	
Depot. )	

In the Matter of the Application of )	
ROGER GREGOIRE, doing business as )	
PITTSBURG-ENES TRACT BUS SERVICE )	
for certificate of public convenience )	Application No. 26709
and necessity to operate passenger )	
service as a common carrier, between )	
Enes Tract, Pittsburg and industries )	
in the vicinity of Pittsburg, )	
California. )	

In the Matter of the Application of )	
DENNIS PETTAS, doing business as )	
PETTAS AUTO STAGES for certificate )	
of public convenience and necessity )	Application No. 26794
to operate passenger service as a )	
common carrier, between Enes Tract, )	
Pittsburg, and industries in the )	
vicinity of Pittsburg, California. )	

PICCIRILLO & WOLF by LOUIS M. PICCIRILLO; for Mario Lucido in Appl. No. 25553, 2nd Supp.

ROGERS, WOLLITZ & CARMODY by HUGH H. DONOVAN, for Roger Gregoire in Appl. No. 26709.

E. WALTER LYNCH, for Dennis Pettas in Appl. No. 26794.

DOUGLAS BROOKMAN, for Pacific Greyhound Lines, protestant.

BY THE COMMISSION:

**O P I N I O N**

The three applications, as entitled above, request authority for the operation of passenger stage service in the area

directly west of the city of Pittsburg, in Contra Costa County. In addition, Mario Lucido, applicant in Application No. 25553, seeks a certificate to operate between Pittsburg and Columbia Park Project which lies southeasterly of Pittsburg. The respective operations involved herein, present and proposed, are more fully described in the margin below. (1)

A public hearing was held before Examiner Gannon at Pittsburg on June 28, 1945, and by agreement of the parties the three applications were consolidated for hearing and decision.

We will first consider that portion of Application No. 25553 which has to do with the request of Mario Lucido for authority to operate between Pittsburg and Columbia Park Project and Pittsburg Hospital.

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(1) Application No. 25553 (2nd Supp.)

Mario Lucido, doing business as Mario's Service, holds a certificate of public convenience and necessity authorizing him to conduct a passenger stage service between the city of Pittsburg and Camp Pittsburg and Camp Stoneman (Decision No. 36390, in Application No. 25553, dated May 25, 1943). The camps are located approximately four miles south of Pittsburg and outside the corporate limits of that city. In this second supplemental application Lucido requests an enlargement of his present operating right by the inclusion of two additional routes, (1) between Pittsburg and Columbia Park Project and Pittsburg Hospital, and (2) between Pittsburg and Enes Tract, located westerly of Pittsburg.

Applications Nos. 26799 and 26794.

Pettas now operates certificated services between Pittsburg and the industrial district east of Pittsburg, between Pittsburg and certain adjacent canneries, and between Pittsburg and Camp Pittsburg, Camp Stoneman and Columbia Park Project, and intermediate points. Gregoire performs no public transportation service at this time.

In this proceeding, the application of Gregoire (Application No. 26798), doing business as Pittsburg-Enes Tract Bus Service, and of Pettas (Application No. 26794), doing business as Pettas Auto Stages, are identical as to route and schedules. Both seek to serve the territory between Pittsburg and Enes Tract.

Columbia Park is a new Federal Housing Project located two miles southerly of Pittsburg and occupied by workers in defense plants at Camp Stoneman and Camp Pittsburg. Pittsburg Hospital adjoins the project to the north.

It is represented by applicant that there is need for additional transportation service for the employees of these two institutions. There is nothing in the record before us which will support the request of applicant other than his testimony that a number of persons had asked him to initiate a service to the hospital and the Park. On the other hand, the manager of the Columbia Park branch of the Federal Housing Administration testified there was no need for additional service to the Park, and that the present service of Pettas Auto Stages was adequate and satisfactory. The deputy sheriff of the county testified similarly.

There is no essential difference in the applications of Lucido, Gregoire and Pettas for authorization to operate between Pittsburg and Enes Tract. All propose to operate along the State Highway, serving Home Acres, Enes Tract and the adjacent subdivisions. In so serving the intervening subdivisions, all applicants propose to operate over the same route, with diversion from the State Highway via connecting side streets.

Home Acres and Enes Tract are the largest of the subdivisions involved. The testimony of witnesses fixes the population of Enes Tract at approximately 4,000. All of the territory involved in these applications lies west of Pittsburg and south of the State Highway. To the east of Pittsburg are located various industries some of the employees of which live in the subdivisions to the west of the city.

Applicant Lucido offers a 10-cent fare with 18 schedules each way daily. He has three buses with capacities varying from 35 to 40 passengers. His testimony is that he had made no study of the potential business that might be developed or the cost of operation. He frankly characterized the venture as a "gamble".

Applicant Gregoire also proposes a 10-cent fare with 18 schedules daily. He has two buses available for the proposed service, with capacities of 30 and 14 passengers, respectively.

The application of Dennis Pettas is identical in all material respects with that of Gregoire, except that he proposes a one-way fare of 15 cents. However, this was based on an offer of transportation to and including the industries in the vicinity of Pittsburg. Pursuant to Decision No. 13966, dated August 27, 1924, Pettas holds a certificate from the Commission authorizing passenger service between Pittsburg and the industries situated along the public highway extending east of the city limits, a distance of about  $1\frac{1}{2}$  miles. Witnesses testified that this service is adequate and satisfactory, and the proposed service would be co-ordinated with it. Should it develop that the proposed fare is out of line the matter could be made the subject of a subsequent proceeding.

Pettas has three buses with capacities of 40, 34 and 32 passengers, respectively. His proposed service is endorsed by Columbia Steel Mills, with 500 employees, and by Pioneer Rubber Mills, both of which are located in what is known as "Industrial Row."

The three applications were opposed by Pacific Greyhound Lines which operates a through service, doing a local business over the State Highway between Pittsburg and Enes Tract. It has

established four pickup and discharge stops between these points, and operates 27 eastbound and 31 westbound schedules daily. All applicants offered to stipulate that they would not pick up or discharge passengers at any point along the State Highway now traversed by Pacific Greyhound Lines, but counsel for Greyhound declined to enter into such stipulation. The division superintendent testified that his company proposed to increase the number of schedules so as to provide a daily 30-minute service in both directions. The local fare of 10 cents applies to the transportation involved. There is, however, no co-ordination between the schedules of the Greyhound Lines and the other carriers serving the industries.

The President of the Pittsburg Chamber of Commerce testified that the present service is not satisfactory. Pacific Greyhound Lines' service, in his opinion, was essentially an inter-city operation and does not meet the requirements of a local service such as is here urged by local witnesses.

The record in this case amply sustains the need for an adequate and convenient local passenger transportation service for the area involved. While the Pacific Greyhound Lines offers a frequent service along the route it operates, it does not offer a direct service for many of the employees in traveling between their homes and the industrial section of Pittsburg. This applies to a large number of residents living south of the State Highway and west of Pittsburg who are employed at the industries east of the city. All three applicants offer this direct service. Applicant Gregoire is presently employed in the service of Pettas, and will continue as a bus driver. Several of the large industries located

in East Pittsburg have endorsed the Pettas service, as has the Pittsburg Chamber of Commerce.

Upon a review of this record we find that public convenience and necessity require the establishment and operation by Dennis Pettas of passenger stage service as applied for in Application No. 26794 and as set forth in the order. Furthermore, we find that the second supplement to Application No. 25553 and Application No. 26709 should be denied, and the following order will so provide.

Dennis Pettas is 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 matters, and the Commission being duly advised in the premises, and based upon the conclusions and finding set forth in the preceding opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Dennis Pettas for the establishment and

operation of service as a passenger stage corporation, as defined in Section 24 of the Public Utilities Act, for the transportation of passengers and baggage between Enes Tract, Pittsburg, and the industries in the vicinity of Pittsburg, and intermediate points.

(2) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

1. 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.
2. 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.
3. Subject to the authority of the Commission to change or modify them by further order, applicant shall conduct operations, pursuant to the certificate herein granted, over and along the most appropriate route or routes between the points herein authorized to be served.

(3) That Application No. 25553 (2nd Supplemental) of Mario Lucido, and Application No. 26709 of Roger Gregoire are hereby each denied.

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

Dated at San Francisco, California, October 9, 1945.

David Paulson  
Richard L. Halse  
Francis Clark  
W. H. Russell  
COMMISSIONERS