

Decision No. 38371

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Ray Withers and Andrew Byrd, a co-
 partnership, doing business under the
 firm name and style of San Mateo
 Transit, for a certificate of public
 convenience and necessity to operate
 a motor bus service as a common carrier
 of passengers between San Mateo Depot
 and Bay Meadows race track in the city
 of San Mateo, California.

ORIGINAL

Application No. 27038

O P I N I O N

Ray Withers and Andrew Byrd, doing business as San Mateo Transit, presently provide a passenger stage service between Burlingame, San Mateo and Hillsborough, among other points. In the above entitled application, they request the Commission to issue to them a certificate authorizing the transportation of passengers between the terminus of San Francisco Municipal Streetcar Line at the Southern Pacific Company Depot at San Mateo and the Bay Meadows Race Track, during the horse racing season and on racing days only, for which, the application states, there is a public need. A one-way fare of 15¢ would be charged.

Applicant presently operates over a portion of El Camino Real between points in the city of San Mateo including the Southern Pacific Depot and the intersection at El Camino Real and 39th Avenue, thence westerly to the Community Hospital. The race track is approximately within one-half mile from the southerly portion of this route.

Pacific Greyhound Lines has informed the Commission in writing that it does not desire to oppose the granting of the application, provided that applicant's proposal to use El Camino Real between Fourth Avenue and Twelfth Avenue, San Mateo, is eliminated. As applicants are proposing to serve only the terminal points, and as such service would be provided during the racing season only, we see no need to require that the operation be conducted over a specified route. Applicants should be authorized to use the most desirable or appropriate route depending upon highway traffic conditions. It appears there is a public need for the proposed service and a certificate therefor will be issued.

Withers and Byrd, partners, 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

An application therefor having been filed and it being hereby found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity is hereby granted to Ray Withers and Andrew Byrd, partners,

authorizing the establishment and operation of service as a passenger stage corporation as such term is defined in Section 22 of the Public Utilities Act for the transportation of passengers between the terminus of the San Francisco Municipal Streetcar Line at Southern Pacific Depot, San Mateo, and Bay Meadows Race Track, during the horse racing season and on racing days only.

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

1. Applicant shall file a written acceptance of the certificate herein granted within a period not to exceed 30 days from the effective date hereof.

2. Applicant shall, within 60 days from the effective date hereof and on not less than 5 days notice to the Commission and the public, establish the service herein authorized and 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 tables satisfactory to the Commission.

3. Subject to the authority of the Commission to change or modify them by further order, applicant shall conduct operations over and along the most appropriate route.

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

Dated at San Francisco, California, this 6th day of November, 1945.

Harold Anderson
Justus F. Craven
Thomas W. Clark
Frank A. Russell