

ORIGINAL

Decision No. 39590

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 R. L. and A. L. BENINGER for a certifi-)
 cate of public convenience and neces-)
 sity to operate a passenger-stage service) Application No. 27608
 between Antioch and Marsh Creek Park as)
 an extension and enlargement of existing)
 service.)

AARON H. GLICKMAN, for applicants.
 J. D. MAATTA, for Pacific Greyhound Lines, protestant.
 MORTIMER B. VEALE, for the Board of Supervisors of Contra
 Costa County, protestant.
 E. WALTER LYNCH, for Dennis Pettas and Horace Coniglio,
 protestants.

O P I N I O N

R. L. and A. L. Beninger, partners, by the above-entitled application, as amended, seek a certificate authorizing the transportation of passengers between Antioch and Marsh Creek Park and intermediate points via Pittsburg industrial area, Pittsburg and Camp Stoneman, subject to certain limitations. A public hearing was had before Examiner Paul at Pittsburg and San Francisco on October 14 and 28, 1946, when evidence was adduced and the matter submitted for decision.

In essence, applicants propose to provide service between Antioch and the industrial area located between Antioch and Pittsburg, and to provide service between Antioch, Pittsburg and Camp Stoneman, on the one hand, and Marsh Creek Park, on the other hand. There is no proposal to provide service locally within the corporate limits of Pittsburg, nor between Pittsburg and Camp Stoneman, nor between Pittsburg and Antioch. The proposed service to and from Marsh Creek Park beyond Camp Stoneman would be operated on a seasonal basis from approximately April 1

to October 30, of each year. Three daily round trip schedules would be provided between the latter points. The service between Antioch and the industrial area located between Antioch and Pittsburg would be operated in conjunction with applicants' present service between Antioch and Camp Stoneman. The service between Antioch and Camp Stoneman is only for those passengers having either point of origin or point of destination at Camp Stoneman. The industrial area would be served by detouring three of applicants' fifteen schedules presently operating between Antioch and Camp Stoneman. These three schedules would be detoured daily except Saturdays and Sundays at times to meet the shift changes at the various plants.

The proposed one-way fare between Antioch and the industrial plants would be 15 cents with free transfer privilege in Antioch in connection with routes operated in that city by applicants. The proposed one-way and round trip fares between Antioch and Marsh Creek Park are 50 cents and 90 cents, respectively. Between Pittsburg and Camp Stoneman, on the one hand, and Marsh Creek Park, on the other hand, such fares are 40 cents and 75 cents, respectively. The record shows that applicants have two units of equipment which are available to provide the proposed service. One of such units would be necessary for the proposed Marsh Creek Park seasonal service. Applicants are experienced operators and their financial condition is adequate to conduct the proposed operations.

Testimony in support of the proposal to provide service between Antioch and the industrial area was produced through the Secretary-Manager of the Antioch Chamber of Commerce, the employees' supervisor for Columbia Steel Company, one of the applicants and four public witnesses. The Secretary-Manager of the Antioch

Chamber of Commerce stated that as a result of a survey made by him, it was his opinion that approximately 1200 employees of the various plants in the area involved reside at Antioch. He stated that of the various plants surveyed by him, the proportion of employees residing at Antioch varied from 20% to 45%. He expressed the opinion that as a result of his survey these people were using their own vehicles or riding with others between their homes and work. He asserted they have a need for the proposed service. The employees' supervisor for Columbia Steel Company testified in substance that various employees of the company had indicated to him a need for a service similar to that proposed by applicants. It was his opinion that a number of Columbia Steel employees had relinquished their employment because of a lack of such service. This company has a staff of about 2900 employees of whom approximately 650 reside at Antioch. One of the applicants testified that he had had numerous requests from various individuals to establish the proposed service to and from the industrial area.

As an additional reason for the establishment of the proposed service, the latter witness testified that more revenue was necessary to maintain present operations between Antioch and Camp Stoneman which showed a net operating profit of only \$139.40 for the period January 1 - September 30, 1946. This net operating profit was before any withdrawals had been made by the proprietors.

With respect to the proposed operation of applicants between Antioch and Marsh Creek Park, evidence was adduced from one of the applicants and three public witnesses. One of these witnesses testified that he now uses a private car between these points but would use applicants' proposed service. Another witness stated that he was interested in the service and would use it

occasionally; while a third witness testified that he would use the service to Marsh Creek Park on Sundays only. On those occasions when he had traveled between Antioch and the Park, the latter witness had used the family automobile.

The Board of Supervisors of Contra Costa County, through counsel, opposed the use of the Kirker Pass Road by applicants for their proposed operations between Camp Stoneman and Marsh Creek Park. He stated that such road was too hazardous for the operation of commercial equipment because of the limited width of the paved portion of the road and many sharp, narrow curves and steep grades.

Pacific Greyhound Lines opposed the granting of the application in all respects. It produced evidence showing the service it provides between Antioch and Pittsburg serving the intermediate industrial area, and the service it renders between Antioch, Pittsburg and Marsh Creek Park, via Concord. It introduced evidence showing the amount of traffic between Antioch and Pittsburg on the one hand, and Marsh Creek Park on the other hand, which it had transported during the months of June, July, August and September 1946.

Dennis Pettas and Horace Coniglio, who individually provide local passenger-stage services between Pittsburg and the industrial area located between Pittsburg and Antioch, also entered protests to the granting of the application but made no showing from which it can be determined what services they render.

After careful review of all the evidence of record in this proceeding, it is our conclusion that such evidence is sufficient to support a finding that public convenience and

necessity require the establishment and operation of a passenger-stage service as proposed by applicants between Antioch and the industrial area located between Antioch and Pittsburg, but is insufficient to support a finding that there is a public need for establishment of applicants' proposed service to and from Marsh Creek Park.

Evidence adduced by Greyhound Lines shows that while it provides service between Antioch and the industrial area located between Antioch and Pittsburg, the points of pickup or discharge of passengers in most cases require that they walk considerable distances to or from their places of employment. It was shown that this service was inadequate to meet the public need.

Over the route proposed by applicant, Marsh Creek Park is approximately 20 miles from Antioch and approximately 14 miles from Camp Stoneman. There is no proposal to serve the territory intermediate to Marsh Creek Park and Camp Stoneman. The showing made with respect to the public need for service to and from Marsh Creek Park leads to the conclusion that if it were established, the revenues derived therefrom would be insufficient to defray the expenses of such extended operations. Applicants made no survey of the potential revenues which might be expected from this operation nor the expenses in connection therewith. Because of the inadequacy of the showing made this portion of the application must be denied.

Based upon the evidence of record and the foregoing conclusions, we find that public convenience and necessity require the establishment and operation of a passenger-stage service by applicants between Antioch and the industrial area located between

Antioch and Pittsburg, as an extension of and consolidated with applicants' present operations between Antioch and Camp Stoneman and the denial of the application for authority to operate between Antioch, Pittsburg and Camp Stoneman, on the one hand, and Marsh Creek Park, on the other hand. Such will be the order.

O R D E R

A public hearing having been had in this proceeding, evidence adduced and the matter submitted, and it having been 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 R. L. and A. L. Beninger, partners, authorizing 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 between Antioch and a point east of the easterly city limits of the city of Pittsburg where East Third Street intersects Harbor Street, including all intermediate points, subject to the following restrictions:

- a. No passengers may be picked up or discharged at any point intermediate to Camp Stoneman and the junction of East Third Street and Harbor Street along the route over Railroad Avenue and East Third Street.
- b. No passengers may be transported over Railroad Avenue and East Third Street between Camp Stoneman and the junction of East Third Street and Harbor Street, except those being transported between Camp Stoneman and Antioch.

(2) That such certificate is hereby consolidated with and made a part of the certificate created by Decision No. 36460 in Application No. 25610.

(3) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- a. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicants shall 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 timetables.
- c. Subject to the authority of this Commission to change or modify it by further order, applicants shall conduct operations pursuant to the certificate herein granted over and along the following route:

Commencing at the junction of State Route Nos. 4-24 and unnumbered county highway connecting said State Route Nos. 4-24 with Road Six, approximately one and one-quarter miles east of Pittsburg City Limits, westerly along State Route Nos. 4-24 to Industrial Road, northerly along Industrial Road to unnumbered county road separating the plants of Columbia Steel Company and Great Western Electro Chemical Company, westerly and northerly along said road to East Third Street, easterly along East Third Street to Industrial Road, southerly along Industrial Road to State Route Nos. 4-24, westerly along State Route Nos. 4-24 to Columbia Street, northerly along Columbia Street to East Third Street, westerly along East Third Street to Railroad Street, southerly on Railroad Street and Railroad Avenue to Camp Stoneman.

(4) That in all other respects said Application No. 27608 is hereby denied.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 3rd day of December, 1946.

Harold P. Hule
Justin F. Brewer
Wm. W. O'Connell
Frank J. Powell
R. E. [Signature]
COMMISSIONERS