

Decision No. 40305

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
 ELMER WORTHINGTON & CLAYTON ESLINGER)
 for an amendment to their certificate)
 of public convenience and necessity)
 granted under Decisions Nos. 37687 and) Application No. 28151
 39182 to operate an automobile stage)
 line and package and parcel service)
 between San Diego, California, and)
 Tecate, California, and Morena Lake,)
 California)

In the Matter of the Application of)
 SAN DIEGO ELECTRIC RAILWAY COMPANY, a)
 corporation, for certificate of public)
 convenience and necessity to establish)
 common carrier passenger bus service)
 between the intersection of Broadway) Application No. 28229
 and 65th Street and the intersection)
 of Campo Road and Imperial Avenue, and)
 to abandon such service between inter-)
 section of Broadway and 65th Street and)
 the intersection of Imperial Avenue and)
 65th Street, all in the City and County)
 of San Diego.)

Morrison, Hohfeld, Foerster, Shuman & Clark, by Forrest A. Cobb, for applicant in A. 28229; protestant in A. 28151. Ruel Liggett for applicant in A. 28151; protestant in A. 28229. V. J. Dorman for Lemon Grove Chamber of Commerce, Lemon Grove School District, and for certain residents, interested parties.

O P I N I O N

Elmer Worthington and Clayton Eslinger operate a passenger stage corporation for the transportation of persons, baggage, and express between San Diego and Campo, Tecate, and Morena Lake. Shipments of baggage and express are limited to fifty (50) pounds

each and must be incidental to the transportation of passengers.

There is sought herein the removal from applicants' present certificate⁽¹⁾ of a restriction which reads as follows:

"No passengers shall be transported having both origin and destination between applicants' terminus in the City of San Diego and a point one mile east of the intersection of Bancroft Drive and Campo Road."

Applicants do not propose to pick up and deliver passengers between points within the city limits of San Diego, with the exception of 1800 feet of city land along Federal Boulevard lying approximately a mile easterly from the intersection of Federal Boulevard and Euclid Avenue.

A public hearing was held by Examiner Syphers at San Diego on February 26 and 27, 1947.

There is now on file with the Commission, San Diego-Campo Bus Line Local Passenger Tariff Cal. P.U.C. No. 2. This tariff, together with a suggested amendment thereto, attached to the application, contains the rates proposed for the service herein requested.

Applicants presently maintain two daily schedules; one between Morena Lake and San Diego, and the other between Tecate and San Diego. They own two buses, a 1929 Yellow Coach rebuilt with a 1946 motor and a 1935 body, and a 1939 Flexible Motor Coach. Worthington and Eslinger have no employees other than themselves. They conduct all of the business including driving and repairing the equipment.

(1) Decision No. 37687, dated February 27, 1945, granted a certificate to Alden L. Bridgham. Worthington and Eslinger were authorized to purchase this certificate from Bridgham by Decision No. 38367, dated November 6, 1945. Extensions authorizing operations to Tecate and Morena Lake were granted to Worthington and Eslinger by Decision No. 39182, dated July 9, 1946.

The two daily schedules go through the restricted area previously described. The principal community in this restricted area is Lemon Grove, which, according to the evidence, is a fast-growing community presently having 1,336 registered voters, a population of approximately 6,174 people⁽²⁾, and is a locality where considerable home and business construction is in progress. In the whole restricted area there are 1,766 buildings of which about 30 are business establishments and the remainder are dwelling houses

Applicants propose to institute nine schedules per day in this area by running a shuttle bus between San Diego and Homeland. This proposed shuttle bus will cover the presently restricted area and also the additional communities of Spring Valley, Casa de Oro, and Homeland. While these communities are now being served by applicants' two daily schedules, it is contended that the removal of the restriction will enable them to give these communities the benefit of the additional service.

The evidence shows that Homeland has a population of approximately 275 persons. Casa de Oro has about 90 homes. Spring Valley has 790 registered voters and Homeland, 345.

A communication from the city manager of San Diego indicated no opposition to the proposed service, and various civic groups of the other communities involved have endorsed the application.

Protestant, San Diego Electric Railway, operates the main street railway and bus transportation system in and around

(2) The testimony showed 1,764 water meters, and a ratio of $3\frac{1}{2}$ persons per meter.

the City of San Diego. This company presently has a service from Lemon Grove to San Diego, which, however, runs over a circuitous route via La Mesa. Testimony indicated, and counsel for applicants and protestant stipulated, that travel by this circuitous route is slow, taking about an hour or more to get to San Diego. Applicants travel from Lemon Grove to San Diego in less than half an hour. The distance from Lemon Grove to San Diego is eight miles whereas the distance via protestants' existing routes is about sixteen miles.

Various public witnesses, residents and businessmen of the territory involved, testified as to the unsatisfactory nature of the existing service. These witnesses also testified that they and the other residents of the area need and desire a direct bus service to San Diego and would use it were it instituted. The testimony also indicated public inconvenience due to the present lack of transportation.

Upon this record we conclude that public convenience and necessity require a more direct and more expedited service between San Diego and Lemon Grove, Spring Valley, Casa de Cro, and Homeland. Having reached this conclusion, it now becomes necessary to decide whether Worthington and Eslinger or the San Diego Electric Railway Company shall provide the service.

San Diego Electric Railway Company is protestant in Application No. 28151 and applicant in No. 28229. This company takes the position that additional service is not warranted, but that if any operating authority is granted, the San Diego Electric Railway Company should be the recipient. This

contention is based on the argument that this company formerly provided a direct service from the area under consideration to San Diego, and is in a better position to serve the public.

It is true that the San Diego Electric Railway Company formerly provided such a direct service to San Diego and authority to discontinue this service was granted by the Commission (Re San Diego Electric Railway Company, Decision No. 24227, dated November 16, 1931, 36 CRC 796). However, during the more than 15 years since this discontinuance, no effort has been made to reestablish service in spite of the growth in population. We think it significant that, as brought out in the testimony, the San Diego Electric Railway Company has refused to consider the institution of new service and only became interested in this service at all after Worthington and Eslinger had filed their application. No question is raised as to the qualifications of the San Diego Electric Railway Company as a passenger stage operator; however, their present position is not one of willingness to serve the particular segment of the public concerned.

Applicants Worthington and Eslinger are able and willing to institute the service. While it is true that they are now operating on a very close financial margin, nevertheless they are providing satisfactory service to the public and they are entirely solvent. Removal of the existing restriction will increase their volume of business, and a fair view of all the testimony impels the conclusion that their net income will likewise be increased.

Upon full consideration of this matter we are of the opinion and find that the removal of the restriction as set out hereinbefore, is in the public interest and, therefore, Application

No. 28151 of Worthington and Eslinger will be granted. It has been decided to issue an in lieu certificate incorporating the existing rights of those applicants and the changes herein proposed.

Application No. 29229 of the San Diego Electric Railway Company will be denied.

O R D E R

Elmer Worthington and Clayton Eslinger, copartners, having made application for a certificate of public convenience and necessity in the above-entitled matter, and the Commission being fully advised and finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Elmer Worthington and Clayton Eslinger, authorizing the establishment and operation of a service as a "passenger stage corporation" as that term is defined in Section 2½ of the Public Utilities Act, for the transportation of persons, baggage, and express incidental to the transportation of passengers, between San Diego and Campo, California, and intermediate points, and between Campo and Morena Lake, and intermediate points, and between the junction of an unnumbered county road and California State Route No. 94, approximately two miles northwesterly of the town of Tecate, and Tecate and intermediate points. This certificate is subject to the following restrictions:

- (a) Shipments of baggage and express shall be limited to fifty pounds each and shall be transported on passenger-carrying vehicles.

- (b) No passengers shall be transported having both origin and destination within the city limits of the City of San Diego, with the exception of 1800 feet of city land along Federal Boulevard, lying approximately a mile easterly from the intersection of Federal Boulevard and Euclid Avenue.
- (2) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

- (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, within sixty (60) days from the effective date hereof and upon not less than one (1) day's 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, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, Elmer Worthington and Clayton Eslinger shall conduct said passenger stage operation over and along the following described routes:

Beginning at the intersection of 1st Avenue and Broadway in San Diego, thence along 1st Avenue, Market Street, 32nd Street, "F" Street (sometimes called the Broadway Extension), thence east along State Highway No. 94 to its terminus in Campo, California.

Over and along the county road between Tecate and the junction of such county road with California State Route No. 94. Beginning at Campo, thence along Campo-Buckman Springs Road to Morena Lake, thence northeasterly for a distance of about two miles to a junction with Buckman Springs Road, thence along Buckman Springs Road to Campo.

Applicants are authorized to turn their motor vehicles at termini or intermediate points, either in the intersection of streets or by operating around a block in either direction, contiguous to such intersection.

IT IS HEREBY FURTHER ORDERED that Decision No. 37687, dated February 27, 1945, Decision No. 38367, dated November 6, 1945, and Decision No. 39182, dated July 9, 1946, be canceled and of no further force and effect.

It is hereby further ordered that Application No. 28229, of San Diego Electric Railway Company, be denied.

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

Dated at San Francisco California, this 27th day of May, 1947.

Harold P. Kule
Justus J. Gallen
Robert Powell
A. F. [unclear]
Herbert H. Patten
COMMISSIONERS