

Decision No. 41366

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of D. MOYERS for authority to discontinue and abandon the service now being performed between Fresno and the Fresno Air Terminal.) Application No. 28908

In the Matter of the Application of WILDE & WILDE, INC., a California corporation, for certificate of public convenience and necessity to operate a passenger stage service, as a common carrier, between the City of Fresno and Hammer Field (Fresno City Municipal Airport).) Application No. 28971

In the Matter of the Investigation on the Commission's own motion into the operations, rates, charges, fares, schedules, accounts, contracts, agreements, rules and practices of WILDE & WILDE, INC., a corporation.) Case No. 4935

- AYNESWORTH & HAYHURST by L. NELSON HAYHURST, for applicant Moyers.
WILLIAM M. MILES, for applicant Wilde & Wilde, Inc.
A. E. OGILVIE, for Fresno City Lines, interested party.
J. C. TUCKER, for United Air Lines, interested party.
C. D. FLOURNOY, for Transcontinental and Western Air, Inc., interested party.
REGINALD M. FARRAN, for Field Division, Public Utilities Commission.

O P I N I O N

D. Moyers conducts an operation under a certificate authorizing passenger stage service between the Fresno Municipal Airport, formerly known as Hammer Field, on the one hand, and the Hotel Californian, Southern Pacific Depot and Pacific Greyhound Lines depot at Fresno, on the other hand (Decision No. 40182, Application No. 24297). Conditions of this certificate limit the service to the named termini only and provide that Moyers use a type of equipment known as the Flexible Airporter with a seating

capacity of 23 passengers which is especially designed for airport service. He also operates under a certificate authorizing passenger stage service between Fresno, Clovis, Friant and intermediate points via Fresno Municipal Airport without limitation as to the type of equipment which must be used or the intermediate points which may be served except that he may not provide local service within the City of Fresno on this route.

By Application No. 28908 Moyers requests authority to discontinue the special service between Fresno Municipal Airport and Fresno as created by said Decision No. 40182.

Wilde & Wilde, Inc. by Application No. 28971 requests a certificate authorizing passenger stage service between Fresno Municipal Airport, on the one hand, and Hotel Fresno and Hotel Californian in the City of Fresno, on the other hand. No intermediate point service is proposed.

On January 13, 1948, in Case No. 4935, the Commission issued an order instituting an investigation to determine whether Wilde & Wilde, Inc. has been or is now engaged as a common carrier for compensation in the operation or management of any stage or motor vehicle used in the transportation of persons and their baggage or express between points within and about Fresno, California, on the one hand, and the Fresno Municipal Airport (Hammer Field) and environs, on the other hand, as a passenger stage corporation, as that term is defined in Section 24 of the Public Utilities Act, without possessing an operative right to conduct such operations.

A public hearing was had on these matters at Fresno on February 2, 1948 before Commissioner Potter and Examiner Paul upon a consolidated record which was submitted.

Application No. 28908, D. Moyers

D. Moyers stated that the airport service which he has been providing has returned an insufficient revenue to justify its continued operation. Evidence submitted shows that during the period October 1, 1947 to and including January 20, 1948, 3,878 passengers were transported to or from the Fresno Municipal Airport of a total of 9,925 passengers who either enplaned or deplaned at the airport. The total operating revenue received from this operation amounted to \$1,939.50. The operating expenses of conducting this service for the same period amounted to \$5,477.67, resulting in a total operating loss of \$3,538.17 for the period. The one-way fare charged is fifty cents. Moyers operates this service to connect with the arrivals or departures of airplanes using the Fresno Municipal Airport.

Application No. 28971, Wilde & Wilde, Inc.

This applicant proposes to operate two new 1947 Chrysler Royal seven-passenger sedans in providing its proposed service between the Fresno Municipal Airport and the Hotel Fresno and Hotel Californian in the City of Fresno for which a one-way charge of one dollar would be made. Schedules would be arranged to connect with the arrivals and departures of the various planes using the airport. Representatives of various airlines using the airport gave testimony in substance to the effect that a service of this type is required, and would meet the needs of all but a few of the passengers using the airplane service at the airport. One representative also stated that a special service of the type provided by taxicab companies is necessary in some instances. The evidence produced stressed a public need for the service proposed by this applicant.

Wilde & Wilde, Inc. has had long experience in the transportation of passengers for compensation. It and its predecessors have conducted a taxicab service within and about Fresno for many years.

Case No. 4935, Investigation Re Wilde & Wilde, Inc.

The Commission's Field Division conducted a survey of the operations of Wilde & Wilde, Inc., respondent in Case No. 4935, covering a period of five days during the month of January 1948. Testimony was produced by a field representative as to the results of such survey. Walter Wilde, President of Wilde & Wilde, Inc., stated that in the conduct of their taxicab business responses were made to requests to transport passengers between the City of Fresno and the Fresno Municipal Airport, and that drivers of taxicabs of respondent were instructed, when operating in the vicinity of the air field, to stop there to solicit passengers for transportation between the Field and Fresno. The basis upon which fares are assessed is not clearly shown.

Conclusions and Findings

While there is evidence in the record in Case No. 4935 that respondent operated between the points involved, we believe the record is insufficient to justify a determination that such operations were unlawful.

The record warrants authorizing applicant Moyers to discontinue passenger stage service between Fresno and the Fresno Municipal Airport. We think the fact that there may be some doubt

about the legality of an occasional operation by respondent Wilde & Wilde, Inc. should not act as a bar to the granting of a certificate to said respondent in view of the record and the clear showing that there is a public need for the proposed service of Wilde & Wilde, Inc. However, it should be noted that an operation of automotive equipment for compensation between fixed points or over a regular route constitutes an operation as a "passenger stage corporation" as defined in Section 2; (b) of the Public Utilities Act, and a certificate of public convenience and necessity must be obtained before such a service may be rendered lawfully. There is no question in regard to the experience or financial ability of Wilde & Wilde, Inc. to conduct the passenger stage service which it proposes.

After full consideration of all the evidence of record, we find that public convenience and necessity require the discontinuance of passenger stage service as proposed by D. Moyers, and the establishment of passenger stage service as proposed by Wilde & Wilde, Inc. We further find, on this record, that the Commission's Investigation in Case No. 4935 should be discontinued.

O R D E R

A public hearing having been had in the above entitled proceedings which have been duly submitted and based upon the record herein and upon the findings contained in the foregoing opinion,

IT IS ORDERED:

(1) That D. Moyers is hereby authorized to discontinue and abandon passenger stage service between Fresno Municipal Airport

and Fresno and the operative right therefor heretofore created by Decision No. 40182 in Application No. 24297 is hereby revoked and annulled.

(2) That a certificate of public convenience and necessity is hereby granted to Wilde & Wilde, Inc. authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of passengers and their baggage between Fresno and the Fresno Municipal Airport (Hammer Field) subject to the conditions:

- a. That no passengers may be transported except those who are about to begin or have just completed an airplane journey beginning or ending at the Fresno Municipal Airport.
- b. That passengers and baggage may be picked up or discharged in the City of Fresno only at the Hotel Fresno or Hotel Californian.

(3) That in providing service pursuant to the certificate granted in paragraph (2) of this order, applicant Wilde & Wilde, Inc. shall comply with and observe the following service regulations:

- a. On or not to exceed 30 days after the effective date hereof, applicant Wilde & Wilde, Inc. shall file an acceptance of the certificate granted in paragraph (2) of this order.
- b. Applicant Wilde & Wilde, Inc. shall establish the service herein authorized not later than 30 days after the effective date hereof and shall comply with the provisions of General Orders Nos. 79 and 93-A by filing in triplicate and concurrently making effective appropriate tariffs and time tables on or after the effective date hereof which may be made effective on not less than 5 days' notice to the Commission and the public.
- c. Subject to the authority of this Commission to change or modify them by further order, applicant Wilde & Wilde, Inc. 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.

(4) That D. Moyers shall issue appropriate supplements of cancellation to all effective tariffs and time tables relating

to service between Fresno and the Fresno Municipal Airport within 30 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(5) That the Commission's Investigation in Case No. 4935 is hereby discontinued.

The effective date of this order shall be 10 days from the date hereof.

Dated at San Francisco, California, this 23rd day of March, 1948.

B. F. Durrain
Justice F. Garner
Walter Powell
Harold P. Kula
Kenneth Potter
COMMISSIONERS