

ORIGINAL

Decision No. 42417

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
STANLEY C. BROWN and ANNE S. BROWN,)
doing business as WALNUT CREEK BUS)
SERVICE, for certificate of public) Application No. 30578
convenience and necessity to operate)
passenger service between Danville,)
California, and Walnut Creek, Cali-)
fornia.)

Edmund S. Barnett, for applicants.
Oscar E. Schumacher, Alfred J. Celdermann and Maurice
Marott, for Danville Chamber of Commerce, and
Mrs. R. J. Peare, for Neil and Lois Townsend,
interested parties.

O P I N I O N

By this application, Stanley C. Brown and Anne S. Brown, copartners, doing business as Walnut Creek Bus Service, seek a certificate of public convenience and necessity authorizing the establishment of service as a "passenger stage corporation" for the transportation of passengers between Danville and Walnut Creek and intermediate points. A public hearing was held before Examiner Bradshaw at Walnut Creek.

Applicants at the present time operate a passenger bus service between Walnut Creek and certain adjacent areas. They now seek authority to extend operations so as to serve the territory south of Walnut Creek to and including Danville. It is proposed to operate six round trips a day, using one 1933 Twin Coach having a seating capacity for 30 passengers. Connections are to be made at Walnut Creek with buses of Pacific Greyhound Lines.

Anne S. Brown, one of the applicants, testified that the

proposed service is offered as a result of numerous requests by residents in the territory and persons having business establishments at Walnut Creek. She estimated that upon the commencement of operations about 50 passengers a day will use the service. While this witness does not expect that revenues will meet operating expenses at the beginning, she expressed the opinion, based on two years' experience in operating applicants' present service, that the proposed operation will eventually pay its way. According to the testimony, applicants' equipment is not encumbered, \$1,500 in cash is on hand and means of financial aid in an undisclosed amount are available.

Three witnesses having businesses at Danville, two of which are engaged in the real estate business, testified on behalf of applicants. They stated that the population in the territory to be served has increased considerably during the last few years; that many of the residents commute to and from San Francisco and the East Bay cities; that an existing service of one round trip a day by Pacific Greyhound Lines is inadequate; and that the absence of more frequent service has retarded development of the territory as residential areas. It was represented that based upon a survey made by one of these witnesses many of the present residents would use the proposed service when travelling to Walnut Creek (which is the nearest shopping center) or the Bay Cities.

The secretary-manager of the Walnut Creek Area Chamber of Commerce asserted that there is a considerable demand for the proposed service; that it would prove beneficial to both the Walnut Creek and Danville areas; and that the existing bus service of Pacific Greyhound Lines is inadequate.

No one opposed the granting of the application. Both the Walnut Creek and Danville chambers of commerce, as well as the Board of Supervisors of Contra Costa County, have signified that they favor the granting of the application.

It appears to be doubtful whether applicants are in a position to operate the proposed service for a sufficient period of time to establish the feasibility of attracting enough traffic to make it self-sustaining. However, sufficient evidence of a demand for the proposed service has, in our opinion, been presented to justify approval of the undertaking.

Upon the facts presented, the Commission finds that public convenience and necessity require the establishment and operation by applicants of service as a passenger stage corporation, as proposed in the application on file in this proceeding.

Stanley C. Brown and Anne S. Brown, copartners, 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

A public hearing having been had in the above-entitled proceeding, and the Commission having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Stanley C. Brown and Anne S. Brown, copartners, authorizing the establishment and operation of a service as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of passengers between Danville and Walnut Creek and intermediate points.

(2) 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 after the effective date hereof.
- b. Applicants shall, within 60 days after 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 schedules.
- c. Subject to the authority of the Commission to change or modify it by further order, the route to be used by applicants shall be over and along California Highway No. 21 between Walnut Creek and Danville and over and along Mt. Diablo, Front and Prospect Streets in Danville.

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

Dated at San Francisco California, this 18th day of October, California.

R. Z. Anderson
Justice F. C. Allen
Walter F. Brown
Harold P. Kille
Herbert H. Potter
 COMMISSIONERS