

ORIGINAL

Decision No. 42595

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PETER J. VAN LOBEN SEIS, an individual
doing business as VALLEY TRANSIT LINES,

Complainant,

vs.

B. J. SMITH, H. B. WAGNER, BENJAMIN
CLAYTON, PAUL BURKHOLDER, JOHN DOE
WAGNER, B. J. SMITH and H. J. WAGNER,
co-partners doing business under the
firm name and style of CAL TRANSIT
LINE, DOE ONE CORPORATION,

Defendants.

Case No. 5165

INTERIM ORDER

The complaint herein, filed on December 7, 1949, alleges in substance that complainant operates as a passenger stage corporation in and between the cities of El Monte, Arcadia, and Monrovia, and between said cities and points in the general vicinity thereof in the County of Los Angeles; and that since December 1, 1949, defendants have been and are now operating passenger stages, as defined in section 2-1/4 of the Public Utilities Act, over regular routes and between fixed termini, without first obtaining a certificate of public convenience and necessity therefor, as required by section 50-1/4 of the Public Utilities Act.

Complainant alleges that defendants operate over four regular routes, set forth in exhibits to the complaint; that defendants transport such persons as may elect to travel over said lines without charge to such patrons; that certain of the business and commercial establishments located on and near such routes contribute to

the cost of furnishing such transportation; that portions of defendants' routes traverse in part the same streets as certain of complainant's routes; that certain other portions of defendants' routes parallel and are near to complainant's routes; that defendants have established time schedules so that defendants' busses pass along complainant's routes prior to complainant's busses; that persons are dissuaded from using complainant's busses; and that defendants advertise through loud-speakers mounted on equipment, newspaper advertising, and posting and publishing of printed advertising matter.

It is alleged that complainant's profits have been small at all times because he has been establishing a new service; that complainant does not have sufficient capital to withstand loss of normal traffic resulting from defendants' operations; and that complainant is dependent upon the revenue derived from operations during the Christmas shopping season to enable him to maintain operations during other periods of the year.

The complaint alleges further that unless defendants are restrained from performing service prior to hearing on the complaint, the complainant will be forced out of business and compelled to abandon service throughout his entire bus system.

Complainant requests an immediate order directing defendants to cease and desist operations forthwith pending hearing, and the issuance of a permanent desist order after hearing. The immediate relief sought by the verified complaint is contemplated by the Public Utilities Act under the circumstances alleged in the complaint. (1)

(1) Section 50-1/4 provides in part as follows:

"When a complaint has been filed with the commission alleging that any passenger stage is being operated without a certificate of public convenience and necessity, contrary to or in violation of the provisions of this act, the commission shall have the power, with or

Good cause appearing, IT IS ORDERED that B. J. Smith, H. B. Wagner, Benjamin Clayton, Paul Burkholder, John Doe Wagner, B. J. Smith and H. B. Wagner, co-partners doing business under the firm name of Cal Transit Lines, and each of them, pending further Commission order herein, shall immediately cease and desist and shall refrain from operating or conducting the transportation service more particularly described in the complaint herein, or any like service, excepting only such operations as may be exclusively within the limits of a single incorporated city, or which consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institution of learning.

Case No. 5165 is hereby assigned to Commissioner Rowell, and hearing therein is set before said Commissioner or such Examiner as may hereafter be designated, at 10 o'clock a.m. on Thursday, December 15, 1949, in the Commission Courtroom, Mirror Building, 145 South Spring Street, Los Angeles, California, it being found that public necessity requires a hearing on less than ten days' notice.

The Secretary is directed to cause a certified copy of this order, together with a copy of the complaint in Case No. 5165, to be served upon B. J. Smith, H. B. Wagner, Benjamin Clayton, Paul Burkholder, John Doe Wagner, and B. J. Smith and H. B. Wagner, co-partners doing business under the firm name of Cal Transit Lines,

(Footnote (1) cont'd.

without notice, to make its order requiring the corporation, or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating or managing such passenger stage, to cease and desist from such operation, until the commission makes and files its decision on said complaint, or until further order of the commission."

and said defendants are ordered to answer said complaint on or before December 14, 1949.

Dated, San Francisco, California, this 8th day of December, 1949.

R. F. [Signature]
Justice F. [Signature]
[Signature]

Commissioners