

ORIGINAL

Decision No. 49836

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN W. MARTIN, WALTER F. WYLIE and)
 ALFRED E. TOMP, individually and)
 doing business as ANTELOPE VALLEY)
 TRANSIT LINES, for a certificate of)
 public convenience and necessity to)
 operate a public transportation)
 service between and over certain)
 streets in the area known as)
 Lancaster and Quartz Hill, in the)
 northwesterly portion of Los Angeles)
 County.)

Application No. 34664

Adams and Hale, attorneys for applicants.
Fred Ballenger, for the Commission staff.

OPINION ON REHEARING

By the application herein, filed with this Commission on August 18, 1953, and amended on October 5, 1953, October 6, 1953, and November 6, 1953, applicants, as general partners, sought authority to render a passenger stage service in the unincorporated community of Lancaster and between there and the unincorporated community of Quartz Hill, both in Los Angeles County, California. Hearings were held in Lancaster on October 27, 1953 and in Los Angeles on November 13, 1953. The Commission requested information concerning the applicants' assets, and on November 24, 1953 received a document (1) reading in full as follows:

"Exhibit I

"The following agreement and contract is entered into by and between John W. Martin, Walter F. Wylie and Alfred E. Tomp. A company known as the Antelope Valley Transit Lines Company has

(1) Exhibit 1 herein.

been formed and each of the above has an equal one-third interest in said company.

"The sum of Eight Thousand Dollars (\$8,000.00) has been invested in said company. Five Thousand Dollars (\$5,000.00) has been invested in equipment and there is a working capital of Three Thousand Dollars (\$3,000.00). Should more capital be needed we know where it can be obtained.

(s) John W. Martin

(s) Walter F. Wylie

(s) Alfred E. Tomp "

By Decision No. 49473, dated December 21, 1953, the application was denied. The opinion denying the application related, among other things, that the applicants "... have little experience and are sketchily financed."

On January 9, 1954, applicants filed their petition for a rehearing, together with a first supplemental application setting forth, among other things, proposed routes different from those in the former applications, and a limited partnership agreement listing John W. Martin and Walter F. Wylie as general partners and Alfred E. Tomp as limited partner. This agreement states, Paragraph V, "No property or other assets other than heretofore contributed shall be contributed or transferred hereto, other than such property and money heretofore contributed."⁽²⁾

The petition for a rehearing was granted, and the rehearing was held in Lancaster on February 23, 1954 before Examiner Rogers. Prior to the rehearing, notice was served on all interested parties. There were no protests. The matter is ready for decision.

(2) Corporation Code Section 15502, Sub. (a) VI requires that the amount of the cash contribution by a limited partner be specified.

In granting or denying a certificate to operate a passenger stage service in territory not served we can and do take into consideration the following factors, among others: the experience and qualifications of the managerial staff, the financial organization and capital of the proposed company, the type of equipment proposed to be used, the possible traffic, and costs of operation.

Concerning the qualifications of the applicants, it appears to us that it is self-evident that they lack the experience necessary to successfully conduct the proposed operations. Mr. Tomp is now a limited partner and, as such, has nothing to do with the management. Mr. Martin is a public accountant. Mr. Wylie is the only member of the partnership with any experience whatsoever in the operation of passenger stages. He has been a bus driver for 17 years, and he testified that out of that period of time on two separate occasions of about three months each he worked in a supervisory capacity.

Lack of experience, by itself, does not disqualify prospective operators if they meet the other requirements for a successful operation.

Applicants' financial organization and capital further demonstrate their inability to perform the proposed services.

Applicant Wylie testified that the applicants have four buses completely paid for, plus fare boxes and equipment. He valued all said items possessed by the applicants at a total of \$7,000. These are all the tangible assets of the company. Mr. Wylie testified that he had \$500 in cash. This could be used to help finance the company. Mr. Martin was not present. His net worth on June 30, 1953 was about \$43,000 including real estate valued at \$20,000 subject to a mortgage of \$10,000. All of his property is community

property held in joint tenancy with his wife, who is not a party to this application nor a member of the partnership.

Mr. Tomp, the limited partner, had a net worth of about \$160,000 on August 10, 1953. He stated he would not place any additional money in the partnership unless Mr. Martin placed the same amount therein. At the time of the last hearing prior to the first decision, the parties had as assets three buses (one has been acquired since the prior decision) and \$3,000 in cash (see Exhibit 1). Mr. Tomp testified that this money has been returned to the contributing partners and that the partnership, as such, has no cash on hand. He will not put any cash into the partnership unless Mr. Martin puts in an equal amount.

As heretofore stated, the limited partnership agreement provides that "No property or other assets other than heretofore contributed shall be contributed or transferred hereto, other than such property and money heretofore contributed."

From the foregoing it can be seen that the only assets the partnership can be definitely assured of are the four buses, the fare boxes, and the incidental supplies, valued at \$7,000.

The equipment proposed to be used meets the requirement of this Commission.

There is a wide difference of opinion regarding the traffic which applicants could expect to carry. Applicants' witness made a survey of the area ⁽³⁾ and estimated that in the area of Lancaster, defined as extending from Avenue F on the north to Avenue J-12 on the south and from 20th Street West on the west to one mile east of Division Street on the east, there is a population of approximately 11,359 persons. He estimated the population of Quartz Hill, the

(3) Exhibit R 1.

limits of which were not defined, at 5,000 persons. The witness stated that he talked to 300 persons in the Lancaster and Quartz Hill areas. Of these people, 25 per cent stated that they would use the proposed stage daily, 35 per cent stated that they would use the proposed service one or more times weekly, and 40 per cent stated that they would use the service periodically. At the time the survey was made, the witness did not know and could not tell the prospective users the fares or the routes proposed.

The pastor of the Sacred Heart Catholic Church and School in Lancaster stated that 305 children attend school at present and that 125 to 150 of these children come from the Quartz Hill area. He stated that his school can handle 450 children and that the proposed service would be a benefit to the children and parents residing in Quartz Hill and also some in Lancaster.

The district superintendent of the Antelope Valley High School and Junior College located on one campus at Milling Street and Division Street in Lancaster stated that there are 1,440 pupils in the high school and 210 pupils in the junior college. The schools provide transportation to pupils residing three or more miles therefrom. He estimated that 18 per cent of the total enrollment reside within three miles of the schools. He could not estimate the number of pupils who would use the proposed services.

Two other witnesses testified that they or their wives would use the stage from daily to three times per week. One resides in Quartz Hill and one resides along the contemplated Route #1 (Quartz Hill route) in the proposed second zone.

The manager of the Safeway Store in Lancaster testified that he has 58 employees, one of whom lives in Quartz Hill, ten live within walking distance of the store and about 30 use private automobiles. He thought that some of his employees would be benefited

if the service were authorized but he did not state how many of his employees lived on or near the proposed routes nor that any had indicated they would use the proposed services.

It is obvious that the service would benefit some persons. There is, however, nothing to show that the witnesses know the routes of the proposed services, and it is interesting to note that the witness who made the detailed survey and actually canvassed 300 persons knew neither the proposed routes to be used nor the fares to be charged.

Evidence relative to the results of the proposed operation was presented by Mr. Wylie for the applicants and Mr. Ballenger for the Commission. Mr. Wylie has had 17 years of experience as a bus driver, six months of which were in a supervisory capacity. Mr. Ballenger is an Associate Transportation Engineer for this Commission with many years of experience in ~~figuring~~^{estimating} costs and *R. 2* returns from operations similar to those contemplated.

Comparisons of their forecasts are set out below:

	(4) <u>Mr. Wylie</u>	(5) <u>Mr. Ballenger</u>
Mileage per month	12,324	10,226
Gas	\$ 492.96	\$ 477.20
Oil	30.08	35.80
Tires	61.62	102.25
Maintenance	246.48	511.30
Depreciation	166.67	150.00
Insurance	206.20	240.00
Taxes	217.06	130.40
Wages	996.00	1,188.00
Expenses per month	<u>\$2,417.07</u>	<u>\$2,834.95</u>
Number of passengers to be carried estimated at:	<u>800 per day</u>	<u>305 per day</u>
Revenue per day	\$ 120.00	\$ 53.60
Per month	3,120.00	1,367.00
Net per month	702.93	<u>(1,467.95)</u>

(Red Figure)

(4) Exhibit G on 1st Supplemental Application.

(5) Exhibit R2.

It is to be noted that there is a wide divergence in the estimates. Mr. Wylie's figures are based on an unrealistic use factor of about $2\frac{1}{2}$ out of each 100 of the population of the entire areas as hereinabove described using the bus each day. The described areas include many points obviously not served by the proposed routes, i.e., those points two to three miles from the nearest approach of the proposed stages. Wages are another example of divergence between the estimates. Mr. Wylie, who will drive only on emergencies, will receive \$100 per week or about \$430 per month. He believes the applicants will be able to secure the services of necessary drivers for a total of about \$566 per month in addition to his salary. Each route will be served from 6 a.m. to 7 p.m. We are satisfied that the estimates prepared by the Commission's engineer are more in conformity with the experience of operators in this state as reflected by the records of this Commission. Applicants have failed to show that the proposed operation is economically feasible.

Upon the record herein we conclude that the proposed plan is unsound. We recognize the fact that many residents of the areas involved would be benefited if the service were authorized. The conclusion is inescapable that applicants have utterly failed to show that they can inaugurate and maintain the proposed services. The best time to recognize the infirmities of the applicants' proposed operation is at the present time before it is commenced and people are accustomed to whatever service might be rendered. By denying the application now, the way is left open for a service adequately financed, dependable and enduring.

The application will be denied.

O R D E R

Public hearings having been held in the above-entitled proceeding and the matter now being ready for decision,

IT IS HEREBY ORDERED that the order of Decision No. 49473 be, and the same hereby is, affirmed.

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

Dated at San Francisco, California, this 23rd day of March, 1954.

R. J. Anderson
President

Justin J. Galloway

Kenneth Potter

John E. Mitchell

Gene Livingston
Commissioners