

ORIGINALDecision No. 50286

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BARRETT GARAGES, INC., a corporation, for a Certificate of Public Convenience and Necessity authorizing it to operate as a passenger stage corporation from the San Francisco International Airport, San Mateo County, California, to the cities of San Francisco, Oakland, Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park and Palo Alto, California.

Application No. 35454

In the Matter of the Application of BARRETT GARAGES, INC., a corporation, for a Certificate of Public Convenience and Necessity authorizing it to operate as a passenger stage corporation from the cities of San Francisco, Oakland, Burlingame, San Mateo, Belmont, San Carlos, Redwood City, Menlo Park and Palo Alto, California, to the San Francisco International Airport, San Mateo County, California.

Application No. 35462

ORDER DENYING PETITIONS FOR REHEARING AND RECONSIDERATION

Protestants Fialer's Limousines, Inc., and Airline Ground Transportation Association, Inc., have filed petitions for rehearing and reconsideration respecting Decision No. 50229, rendered herein on the 6th day of July, 1954, whereby the applicant in the above-entitled proceedings was granted a certificate of public convenience and necessity to operate between the points and places as a passenger stage corporation as in said decision authorized and prescribed.

The Commission has carefully considered the points raised in said petitions. The points therein raised merely restate the matters contended for by petitioners during the hearing of these proceedings.

No useful purpose could be served by restating these contentions as they were adequately covered and considered by the decision herein assailed by the instant petitions. In our opinion, the authorities cited by petitioners do not support their contentions.

Petitioners do not desire to introduce additional evidence but ask for argument before the Commission in bank.

Apparently, petitioners misconceive the issues of law involved herein.

The instant proceedings present no constitutional issues. The finding of the Commission on the question of public convenience and necessity is not subject to judicial review. (Pacific Greyhound Lines v. Railroad Commission, 11 Cal. (2d) 427, 429; San Diego etc. Ferry Co. v. Railroad Commission, 210 Cal. 504, 510, 513; Oro Electric Corp. v. Railroad Commission, 169 Cal. 466, 471; Ashbury Truck Co. v. Railroad Commission, 52 Fed. (2d) 263, 267 (affirmed per curiam by the Supreme Court of the United States, 287 U.S. 570, 77 L. ed. 501).) The scope of review of decisions of this Commission was not broadened by the 1933 amendment to Section 67 of the Public Utilities Act (now Section 1760, Public Utilities Code). (Southern California Edison Co. v. Railroad Commission, 6 Cal. (2d) 737, 748-749.) It is elementary that the granting or withholding of a certificate of public convenience and necessity is a legislative act which rests in the discretion of this Commission. Such action presents no question which is subject to judicial review. (Ashbury Truck Co. v. Railroad Commission, supra, p. 267.) The Commission may grant a number of certificates covering the same route or routes.

In light of the foregoing authorities and the facts of record, we perceive no merit in the petitions herein. Accordingly, said

petitions for rehearing and reconsideration are hereby denied.

Dated, San Francisco, California, this 20th day of
July, 1954.

Robert L. Mitchell
President

Justus F. Caswell

Kenneth Potter

Gene Higgins

Commissioners