

Decision No. 56402**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of HORACE SIMMONS, dba)
 VACA VALLEY BUS LINES to extend his)
 operation to the City of Oakland,)
 Municipal Airport from Travis Air)
 Force Base and Parks Air Force Base)
 for usage by military personnel and)
 such persons as may be traveling on)
 MILITARY ORDERS ONLY.)

Application No. 39494

Bertram S. Silver, for Fialer's Limousines, Inc.;
and William A. Struthers, Jr., for Michael
 Lebedeff, dba Pleasanton Cab Co., protestants.
E. Sam Davis, for Key System Transit Lines,
 interested party.
Charles W. Overhouse, for the Commission staff.

O P I N I O N

Horace Simmons, doing business as Vaca Valley Bus Lines, is seeking, in this amended application, authority to establish a passenger stage service between Travis Air Force Base and the Municipal Airport, City of Oakland, for the transportation of passengers and their baggage. It is proposed that this service be instituted for the special purpose of carrying military personnel and others traveling pursuant to military orders; authorization is not sought to transport all members of the public between the above points.

In the applicant's original application filed October 18, 1957 authority was requested to operate between Parks Air Force Base and the Oakland Airport as well as between Travis Air Force Base and said airport. Public hearing was held in Oakland on November 22, 1957 at which time the matter was adjourned subject to the taking of further evidence. Further hearing was held in Fairfield on February 11, 1958. On February 10, 1958 the applicant amended his

application abandoning completely his proposed service to and from Parks Air Force Base and restricting service to one way from Travis Air Force Base to Oakland Airport. Applicant's original proposal to transport military passengers from Oakland Airport to Travis Air Force Base was deleted by this amendment. During the second hearing the applicant orally requested permission from the presiding officer to amend his application once again to restore that portion of his original application requesting authorization to serve Oakland Airport in both directions. The presiding officer's denial of this request was proper under the circumstances and is sustained. No request was made to reinstate his original proposal to serve Parks Air Force Base.

It is alleged that the presently authorized common carrier passenger service transporting military personnel from Travis to Oakland Airport is inadequate because of undue delays that occur resulting from the multiple carriers that are involved and because of the many transfers that are necessary enroute to Oakland. Transfers are made at Oakland and frequently at Vallejo; in Oakland passengers must make arrangements by taxicab, Key System buses or limousine service for transport to the airport. Taxicab service between Travis and the Oakland Airport is available at approximately \$28 for one to five passengers. Vaca Valley Bus Line intends to provide express through service at \$2.25 for one-way adult fare, half fare for children.

Testimony was received to the effect that this special service is needed between the above points because of the great number of military personnel, and others traveling under military orders, passing through Travis Air Force Base from overseas enroute to destinations in Eastern United States who need to be transported to commercial airports at Oakland and San Francisco. Applicant also states that the aforementioned carrier service is not suitable for

the particular purposes of such personnel because of the irregular and unscheduled arrivals of military aircraft at Travis. The greatest demand for passenger stage service is at hours when no bus service is available.

At present Vaca Valley Bus Line operates buses between the above points on a charter basis charging \$16 a trip. The price remains the same whether one or eight passengers are carried. The number of trips a day varies from 5 to 10 although the evidence was indecisive on this point. By this application the applicant proposes to operate one common carrier schedule a day leaving Travis at 6 p.m. and arriving at the airport at 8 p.m.; unscheduled common carrier trips will be made on an on-call basis. The contract service is expected to continue alongside the certificated operation.

It is very possible that the proposed operation is needed and would benefit that portion of the public described above but it is our opinion that the evidence produced by the applicant is insufficient to support the allegations of the application. We do not require in certificate hearings the high order of proof necessary in judicial proceedings or the courts but we do require some substantial evidence. Here we have little, if any, evidence showing that the military desires or requires the proposed service. Evidence offered, other than the testimony of Mr. Horace Simmons, was incompetent and rightfully rejected. The proof remaining was inconclusive and incomplete.

We recognize that obtaining witnesses from military commands is at times difficult and frustrating, however under the circumstances of this particular case such a problem should not have been evident as such witnesses, if applicant's allegations are correct, would be willing and eager to come forth and testify. The applicant was notified at the conclusion of the first hearing that the second hearing would

be held in Fairfield for the express purpose of enabling applicant's witness to testify at a convenient location. No witnesses were present nor did the applicant attempt to bring them to the hearing.

The applicant conceded that the primary purpose in submitting this application was to obtain military Transportation Requests from the Travis command in lieu of cash from the individual passenger. Such documents, enabling military personnel to travel on commercial carriers at U. S. government expense, are, in the normal course of events, periodically turned in to the military for cash reimbursement. If such documents were issued by the military command then personnel without the ready cash to pay for transportation could travel at government expense to the airport. Applicant states that the military will not issue such documents unless there is a scheduled common carrier service available between the points involved. Thus it can be seen that such an arrangement would be desirable from the carrier's viewpoint. However, we do not know the position of the military in this matter.

Greyhound Corporation operates three trips a day from Travis to Oakland and San Francisco and although inconvenient, as alleged by the applicant, such service is not entirely inadequate. Moreover, the applicant's charter operations appear to be somewhat inconsistent with contemplated certificated operations. The proposal to operate common carrier and private carrier service over the same route between the same points is fraught with possible abuses, none of which were satisfactorily cured from the evidence. Applicant's plans to accommodate a large group as contrasted with a small number of passengers is confusing and uncertain. No concrete program was presented to take care of possible inequities resulting from his choice of whether to use his charter or certificated service on any given run. Furthermore, applicant's proof as to his ability to

financially support such an operation is insufficient and unconvincing; we do not know how much revenue is expected nor are we satisfied from the record that his expenses would not exceed the revenue received. The testimony received was vague and inconclusive.

It may be that there has been an apparent misunderstanding between the applicant, who had no attorney, and one of the protestants resulting in the confusion that occurred at the hearing with respect to the amendment to the application and the lack of evidence. However, the applicant had sufficient opportunities to gather his evidence, including, as previously indicated, an additional day of hearing. The inconvenience and hardship to the other parties to this proceeding outweighs any advantage of further hearings under this application. The denial of applicant's request is without prejudice. He may apply again when his evidence is assembled and prepared. In view of our finding it is not necessary to discuss the merits of the protestants' objections.

O R D E R

Public hearings having been held, the matter having been submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that Application No. 39494 is denied.

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

Dated at San Francisco, California, this 25th
day of MARCH, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners