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ORIGINAL

Decision No. 61476

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AIRPORT COACH SERVICE,
a corporation,

Complainant,

vs.

Case No. 6680

YELLOW CAB COMPANY OF NORTHERN
ORANGE COUNTY, a corporation,
EDWARD A. SLAGLE, CLIFTON EARL
BRILEY, EFFIE PEARL SLAGLE,
ROBERT M. SLAGLE and A. E.
HUNTINGTON,

Defendants.

David B. Kerr, for complainant.
James F. Penney, for defendants.

O P I N I O N

By the complaint herein, filed on July 25, 1960,
Airport Coach Service, a corporation, seeks an order of this
Commission that the defendants:

(1) Cease and desist the solicitation and transportation of
passengers and their baggage as a passenger stage corporation
between Anaheim, Disneyland, Buena Park, and Fullerton, on the one
hand, and the Los Angeles International Airport, on the other
hand;

(2) Take up, collect, repossess, and destroy all of the rate
schedules of service as a passenger stage corporation between

Anaheim, Buena Park, and Fullerton and the Los Angeles International Airport which they have heretofore posted, published, circulated and distributed or which they have caused to be posted, published, circulated and distributed.

(3) Cease and desist from any further or additional solicitation or inducement of the public by any schedule of rates which falsely and wrongfully represent the defendants to be a passenger stage corporation and authorized to provide the same service as complainant between Anaheim, Buena Park, and Fullerton and the Los Angeles International Airport.

On September 12, 1960, an answer was filed on behalf of all defendants which admitted certain of the allegations of the complainant, and denied others.

A public hearing on the complaint was held in Los Angeles before Examiner Kent C. Rogers on November 1 and 2, 1960, evidence was presented, and the matter was submitted subject to filing of concurrent briefs within fifteen days. These briefs have been filed and the matter is ready for decision.

At the outset of the hearing the parties stipulated that the defendant, Yellow Cab Company of Northern Orange County (hereinafter referred to as Yellow Cab) is a California corporation whose principal place of business is located at 1617 East Center Street in the City of Anaheim; that Edward A. Slagle, Clifton Earl Briley and Effie Pearl Slagle are officers and directors of Yellow Cab; that Otis T. Rice, Robert M. Slagle, and A. E. Huntington are employees of Yellow Cab; that complainant is a passenger stage corporation as defined by Section 226 of the

Public Utilities Code of California; that complainant is the holder of a certificate of public convenience and necessity granting to it exclusive operating rights for the transportation of passengers, their baggage, and express between Santa Ana, Disneyland, Anaheim, Fullerton, and Buena Park, on the one hand, and the Los Angeles International Airport, on the other hand; and that the service authorized to be performed by the complainant has in all respects been adequate and in compliance with the general orders, rules, regulations and statutes of the Public Utilities Code of the State of California and of the Public Utilities Commission.

The evidence herein shows the following additional facts which we find to be true:

Yellow Cab conducts a taxicab service with approximately 35 taxicabs in northern Orange County, which includes Disneyland and Buena Park. It has permits or licenses to operate cabs in the cities in northern Orange County, the right to pick up passengers on the streets in said cities and portions of Orange County and has the right to carry said passengers to destinations in California including the Los Angeles International Airport. Its drivers solicit passengers from Orange County points to the International Airport. Yellow Cab picks up and discharges passengers at off-street points including the Disneyland Hotel and Knotts Berry Farm. It may not and does not pick up passengers at points in Los Angeles County, including the Los Angeles International Airport, and carry them to Orange County points. It furnishes all service on a metered basis, the rate being 50 cents for the first mile or

fraction thereof and ten cents for each quarter mile additional and it operates strictly on call without a schedule, and with no designated route. In June, 1960, Yellow Cab altered each of its cabs so it could not normally be driven without the fare registering on the meter. It issues cards to the public advertising its approximate total fare or from its main stops in Anaheim and Buena Park to the Los Angeles International Airport, and in such cards shows the per-passenger portions of the total fares for 1, 2, 3, 4, or 5 persons using the cabs for said trips. On several occasions before and after July 1, 1960, Yellow Cab drivers carried non-related groups of passengers from Orange County points to the airport, and on one occasion after July 1, 1960, a Yellow Cab taxi arrived at the airport with five passengers each of whom paid individual fares and the meter was not in use. Its employees have solicited complainant's airport passengers at the stops on the private property of the Disneyland Hotel and complainant's public street passenger stage stop in Buena Park. Yellow Cab has recently prohibited its employees from soliciting complainant's passengers under penalty of dismissal, but the solicitation has continued on some occasions.

The records of this Commission show that neither Yellow Cab nor any of its employees, officers, or agents has authority from this Commission to render service in Orange County or Los Angeles County as a passenger stage corporation.

The record herein shows that defendant Yellow Cab holds itself out to serve the public in the transportation of passengers for hire. To that extent its operations are similar to those of

a passenger stage corporation. We think that the similarity ends there, however. A passenger stage corporation provides service via a regular route or between fixed termini. Such service is exemplified by complainant which operates between fixed termini via a designated route approximately hourly. Defendant, on the other hand, is primarily engaged in providing local service between any points in Orange County between which the passenger desires transportation. Its fares are computed strictly on a mileage basis and are the fares reflected by the meter. The defendant may legally transport passengers from Orange County points to the Los Angeles International Airport or any other point in Los Angeles County, but may not pickup passengers in the City of Los Angeles. In other words, defendant must make the return trip, from the Los Angeles International Airport at least, with an empty cab.

Complainant points out two things which it believes render defendants' services illegal. First, it has issued an advertising brochure setting forth the prorata approximate fares of an individual member of a group using the cab service between, among other trips, Disneyland or Knotts Berry Farm, on the one hand, and the Los Angeles International Airport, on the other hand. No reason appears why the defendant may not advertise its legally rendered service and advise passengers that the fare will amount to approximately a certain figure per passenger as long as the fare itself is based on the metered charge. The advertising simply appears to reflect good business promotion. Secondly, on one occasion after the defendant had allegedly installed a device in its

taxis which would require the meter to be used when transporting a passenger, five passengers were carried on a non-metered basis. How this was accomplished is not explained, but the record shows that such operation was contrary to the desires of the Yellow Cab Company and prohibited by it, and consequently such isolated instance will not be used as basis for a finding that the defendant is a passenger stage corporation.

It is our opinion and we find that neither the defendants, nor any of them, are rendering service as a passenger stage corporation either between fixed termini or over regular routes as specified in Section 226 of the Public Utilities Code, nor are they computing, collecting, or determining fares on an individual fare basis as set forth in Section 1035 of the Public Utilities Code. Defendants are admonished, however, in the future to refrain from any solicitation of passengers at complainant's bus stops or elsewhere for transportation between specified or fixed termini, such as between Disneyland and the Los Angeles International Airport, and to refrain from non-metered operation and assessment of charges on an individual fare basis. There is some indication in this record that defendants may have acted occasionally in a manner which could be construed as operating unlawfully as a passenger stage corporation. Before defendants can operate lawfully as a passenger stage corporation, they must obtain a certificate of public convenience and necessity from this Commission. Failure by defendants to observe the law relating to passenger stage operations will constitute cause for the Commission to institute appropriate proceedings looking toward a cease and desist order or assessment of penalties.

O R D E R

A complaint having been filed, a public hearing having been held thereon, the Commission having found that defendants are not rendering service as a passenger stage corporation, and based on said finding,

IT IS ORDERED that the complaint herein be and it hereby is dismissed.

The effective date of this order shall be twenty days after the service thereof on each of the parties hereto.

Dated at San Francisco, California, this 14th day of February, 1961.

Arthur J. ...
President
...
...
George H. Hoover
Fredrick W. Hollogg
Commissioners