

61501

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 RUSSELL ADAMS, doing business as)
 ADAMS CHARTER COACHES, for a)
 certificate of public convenience) Application No. 42658
 and necessity to operate a passen-)
 ger stage service between points)
 in and about Napa and Mare Island.)

Robert A. Burrowes, for applicant.
Victor Raahange, for Mare Island Ferry; and Dugald
Gillis, for Vallejo Transit Lines, protestants.
Charles W. Overhouse, for the Commission staff.

O P I N I O N

By this Application filed September 13, 1960, as amended October 4, 1960, Russell Adams, doing business as Adams Charter Coaches, requests authority to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code. The original application asked for rights between Napa and surrounding area, on the one hand, and Mare Island Navy Yard, on the other hand. The amendment enlarged the request to include two additional routes as follows:

1. From an area in Vallejo surrounded by U. S. Highway 40, Benicia Road, Miller Road, Springs Road and the Vallejo City limits to said Highway 40, on the one hand, and Mare Island Navy Yard, on the other hand, via Tennessee Street to said yard.
2. From within an area surrounded by the Mare Island Straits, Georgia Street, Sonoma Boulevard, State Highway 29 and Sears Point Road, on the one hand, to Mare Island Navy Yard, on the other hand.

Public hearing was held in San Francisco on December 6, 1960, before Examiner Rowe at which time evidence was adduced and the

matter submitted for decision as of December 16, 1960. Submission was deferred for ten days so that applicant could specifically define his proposed routes and in order to permit protestant to file a motion asking injunctive relief. This motion, however, has not been presented within the time allowed.

Applicant offered to submit at a time when his sole evidence consisted of testimony showing his prior operations. This is significant when considered with the prayer of the application that he be granted passenger stage rights and with the allegation in the amended application that "service has been operated on the routes herein sought for many years and is well established in the areas." At the suggestion of the examiner evidence was thereupon given concerning present public need for the service. As to that portion of the service over routes between Napa and the Navy Yard this additional evidence was convincing. But as to that originating in Vallejo it appears less convincing, especially in view of the fact that it is competitive with protestants' authorized service.

Mr. Adams testified that in his past service he had carried only employees at the Navy base, as evidenced by their showing the badge permitting them to enter. However, this would not appear to be sufficiently restrictive to make the class he does serve something less than the public. This is especially true when it is remembered that employees working at the Navy Yard would include people working for concessionaires and other temporary or permanent contractors and subcontractors doing construction or other work there.

The Commission finds that applicant's previous unauthorized service to and from points in Vallejo has been adverse to and very harmful to the authorized service performed by Vallejo Transit Lines and to the Ferry company. The fact that applicant has in most

instances given his passengers service to and from their front doors must be viewed not as an additional service to his customers but rather as a means of detracting from an authorized carrier, customers who would otherwise walk a not unreasonable distance and avail themselves of a satisfactory public transportation. To permit enough of this tailored service will inevitably be adverse to the public interest in bringing financial ruin upon this already harassed passenger stage corporation and ferry company.

From a careful review of all the evidence presented at the hearing the Commission is of the opinion and finds that public convenience and necessity require that applicant be authorized to operate as a passenger stage corporation as requested between Napa and an area within a 3-mile radius around the city limits of Napa, on the one hand, and, on the other hand, the Mare Island Navy Yard, but restricted to the route defined in the following order. It is further found that such operative right should be conditioned upon applicant's immediately ceasing his other operations to and from points in the City of Vallejo. The right to operate between the Mare Island Navy Yard and Vallejo, as requested in Amended Application No. 42658 will be denied.

Russell Adams is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application as above entitled having been filed, a public hearing not appearing to be required, and based upon the above finding,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is hereby granted to Russell Adams authorizing the establishment and operation of service as a passenger stage corporation, as that term is defined in Section 226 of the Public Utilities Code, for the transportation of passengers between Napa and an area within a 3-mile radius around the city limits of Napa and Mare Island over and along the routes as described and specified in Appendix A, which is attached hereto and by reference made a part hereof, subject to the provisions, restrictions, limitations and specifications contained therein, subject to the condition that said applicant shall cease and desist from rendering any and all passenger stage service within or to any point in the City of Vallejo not included in his hereinafter authorized operation.

2. The right to operate passenger stage service between Mare Island Navy Yard and Vallejo is denied.

3. That in providing service pursuant to the certificate herein granted, there shall be compliance with the following service regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 98 and insurance requirements of the Commission's General Order No. 101-A. Failure to file such reports,

in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 98 and 101-A, may result in a cancellation of the operating authority granted by this decision.

- b. Within one hundred twenty days after the effective date hereof, and on not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective tariffs and time schedules satisfactory to the Commission.

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

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

Quentin T. Brown
President

W. L. Mitchell

S. J. Fox

George H. Grover

Fredrick B. Volchoff
Commissioners

Russell Adams, doing business as Adams Charter Coaches, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers between Napa and an area within a 3-mile radius around the city limits of Napa, on the one hand, and Mare Island, on the other hand, over the following route:

Beginning at a point within the City of Napa and a 3-mile radius around the city limits of Napa thence along State Highway 29 and State Highway 48 to the entrance of Mare Island Naval Shipyard known as "Northgate", and return.

Motor vehicles may be turned at termini or intermediate points in either direction, at intersections of streets or by operating around a block contiguous to such intersections or in accordance with local traffic regulations.

RESTRICTIONS:

1. Only passengers destined to or originating from Mare Island Naval Shipyard shall be transported.
2. Passengers shall not be picked up or discharged between the "Northgate" of Mare Island Naval Shipyard and Napa Junction located at the junction of State Highway 29 and State Highway 12, both points exclusive.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 61501, Application No. 42658.