

62253

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BENINGER TRANSPORTATION SERVICE, INC.,)
 a corporation, to sell and transfer)
 and EMERY L. DENNIS, an individual)
 doing business as UNITED BUS SERVICE,)
 to purchase and acquire certain oper-)
 ative rights and equipment of SELLER.)

Application No. 43357

In the Matter of the Application of)
 BENINGER TRANSPORTATION SERVICE, INC.,)
 a corporation, to suspend certain)
 operating authority to operate as a)
 passenger stage service.)

Commission Investigation into the)
 service, operations, and practices)
 of BENINGER TRANSPORTATION SERVICE,)
 INC.)

Case No. 7075

Marquam C. George, for applicants in Appli-
 cation No. 43357, and for respondent in
 Case No. 7075.
Robert E. Nisbet, for the Alameda, Contra
 Costa Transit District and Sherrill D.
 Luke, for the City of Richmond,
 interested parties.
William R. Peters, for the Commission staff.

O P I N I O N

On March 14, 1961, the Commission issued an order insti-
 tuting an investigation into the operations and practices of
 Beninger Transportation Service, Inc. (hereinafter at times referred
 to as Beninger).

On April 27, 1961, Beninger filed an application to suspend
 operation over its Route No. 1 and to sell the balance of its pas-
 senger stage operation to Emery L. Dennis (hereinafter at times
 referred to as Dennis).

Public hearing of both matters was held before Examiner
 Thomas E. Daly at San Francisco and the matters were submitted on
 June 8, 1961.

Beninger is a passenger stage corporation engaged in the transportation of passengers between points in Contra Costa County pursuant to Decision No. 58514. It recently ceased operations over Route No. 1 when such service was taken over by the Alameda, Contra Costa Transit District. At the present time Beninger and the District are negotiating for the payment by the District for the loss suffered by Beninger. As a result Beninger requests that service over Route No. 1 be suspended for a period of one year pending such negotiations or possible litigation.

Routes Nos. 2 through 7 are primarily designed for the transportation of school children. Authority is sought to transfer said operations, in addition to five buses, shop equipment, and the office supplies, to Dennis for a cash consideration of \$4,000.

The staff introduced evidence to show that Routes Nos. 2 through 7 are not being operated over the streets described in Decision No. 58514. It was shown that the varying demands of school children make it difficult to operate over specified routes, and the staff therefore suggested that the authority covering Routes Nos. 2 through 7 be restated in the form of an area type certificate. In conformity therewith Application No. 43357 was amended on June 1, 1961 by requesting that the certificate to be transferred to Dennis be issued to provide for the transportation of passengers between Richmond High School, Kelms Junior High School, De Anza High School, and 23d and Market Street in the City of Richmond, on the one hand, and points within a defined area, on the other hand. Copies of the amendment were served upon The Greyhound Corporation and the Alameda, Contra Costa Transit District. No protest was entered.

As of December 5, 1960, Dennis indicated a net worth in the amount of \$17,505.

After consideration the Commission finds and concludes that the proposed suspension and transfer would not be adverse to the public interest.

O R D E R

An investigation having been instituted, an application having been filed and the Commission being informed in the premises;

IT IS ORDERED:

1. That after the effective date hereof Beninger Transportation Service, Inc., may suspend service over Route No. 1 as authorized by Decision No. 58514 for a period of one year.
2. That on or before October 15, 1961, Beninger Transportation Service, Inc., may sell and transfer, and Emery L. Dennis may purchase and acquire the operative rights for Routes Nos. 2 through 7, inclusive, as specified in Decision No. 58514, as well as the property referred to in Application No. 43357.
3. That, within thirty days after the consummation of the transfer herein authorized, purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
4. That, on not less than five days' notice to the Commission and to the public, applicants shall, effective concurrently with the consummation of such transfer, amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved, to show that Beninger Transportation Service, Inc., has withdrawn or canceled, and Emery L. Dennis has adopted or established as his own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 79.

R-31

5. That, effective concurrently with the effective date of tariff filings required by paragraph 4 hereof, the operating authority granted by Decision No. 58514, with the exception of Route No. 1, is hereby revoked, and simultaneously therewith, a certificate of public convenience and necessity is hereby granted to Emery L. Dennis authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and by this reference made a part hereof.

6. That in providing service pursuant to the certificate granted in paragraph 5 hereof, Emery L. Dennis shall comply with and observe the following service regulation:

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.

7. That Case No. 7075 is hereby discontinued.

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

Dated at San Francisco, California, this 11th day of July, 1962

[Signature]
President
[Signature]
[Signature]
George E. Crow
Fredrick B. Holbrook
Commissioners

Appendix A

EMERY L. DENNIS
dba
United Bus Service

Original Page 1

Emery L. Dennis, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers as follows:

BETWEEN Richmond High School, Helms Junior High School, De Anza High School, and 23rd and Market Street in the City of Richmond, on the one hand, and points, on the other hand, within an area bounded as follows:

BEGINNING at the intersection of the northwesterly prolongation of Broadway with San Pablo Bay; thence easterly along said prolongation, Broadway, San Pablo Avenue, Twenty-third Street, Maricopa Avenue, San Pablo Avenue, San Pablo Dam Road, Castro Road to an intersection with Pinole Valley Road; thence from said intersection on a straight line to the intersection of Franklin Canyon Road with U.S. 40 (Freeway); thence northwesterly on the prolongation of the last mentioned line to San Pablo Bay; thence southwesterly along said Bay to the point of beginning. (Both sides of boundary streets or roads included).

Issued by California Public Utilities Commission.

Decision No. 52253, Application No. 43357.