

ORIGINAL

Decision No. 63793

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of PETE DRAKE conducting as sole
owner certain automobile passenger
stage lines under the name of
TERMINAL ISLAND TRANSIT CO.,
requesting authority to extend his
route temporarily.

Application No. 44257

(Filed March 9, 1962)

William C. Price, for Pete Drake, applicant.

R. W. Russell (by Paul L. Garver), for the
Department of Public Utilities and
Transportation, City of Los Angeles,
interested party.

Gerald Desmond (by Edward T. Bennett), and
Henry E. Jordan, for the City of Long
Beach, interested party.

Captain F. W. Silk, for the U. S. Naval
Station, Long Beach, interested party.

Timothy J. Canty and Fred G. Ballenger, for
the Commission's staff.

O P I N I O N

This application was heard before Examiner C. S. Abernathy at Long Beach on April 23, 1962, on which date it was submitted. Copies of the application and notice of hearing were served in accordance with the Commission's procedural rules. There are no protests.

Applicant is operating as a passenger stage corporation, transporting passengers and their baggage in the Los Angeles-Long Beach harbor area. His traffic consists principally of the

movement of naval personnel and civilian shipyard workers between the central business district of Long Beach and naval installations on Terminal Island. He also provides transportation for workers at various industrial plants on Terminal Island between said plants and Long Beach, Wilmington and the San Pedro-Terminal Island ferry.

By this proceeding he seeks authority to provide service between the U. S. Naval Station on Terminal Island and naval housing developments known as the Cabrillo and Savannah Housing Projects which are located in Long Beach in the area between Santa Fe Avenue on the east, the Terminal Island Freeway on the west, 25th Street on the north, and Pacific Coast Highway on the south. At present the only common carrier passenger service between these housing projects and the Naval Station is that which involves travel over a lengthy and circuitous route.

According to testimony which applicant presented in this matter, the Commanding Officer of the Naval Station has requested the establishment of the service which is proposed. This request has been made principally on behalf of families of naval personnel who reside at the housing projects. Assertedly, there is a need by these families for a transportation service as sought in order that they may readily avail themselves of the post exchange and other marketing facilities at the Naval Station.

Applicant proposes to operate three round trips a day, Mondays through Fridays, between the housing projects and the Naval Station. These trips would be operated between the hours, approximately, of 9:30 a.m. and 3:30 p.m. The specific time schedules to be observed would conform to those which are requested by

the Navy. The route to be followed would be mainly along the Terminal Island Freeway, the most direct route between the housing projects and the Naval Station. The fares that would apply would be on the same basis as those which apply for applicant's other services.

The hours during which the proposed service would be provided coincide with a period when applicant's present operations are at a minimum level. Applicant testified that, for this reason, the service can be operated with available buses and drivers. He said that the only additional costs that would be incurred would be the so-called out-of-pocket costs which are specified in the margin below.¹

Applicant's proposals are conditioned upon a request that he be permitted to terminate the additional service if after a 60-day trial period it appears that the service does not generate sufficient additional traffic to return the out-of-pocket

¹ For the purposes of this proceeding the term "out-of-pocket" costs refers to those expenses falling within the following account classifications:

<u>Account No.</u>	<u>Account Designation</u>
4140	Repairs to Revenue Equipment
4150	Servicing of Revenue Equipment
4160	Tires and Tubes
4220	Drivers' Wages (See note)
4230	Fuel for Revenue Equipment
4241	Oil for Revenue Equipment
4520	Public Liability and Property Damage Insurance
5210	Taxes on Fuel and Oil
5250	Other Taxes

Note: Allowance for drivers' wages applies for extra driving time only, and is limited to 2 cents per mile.

costs thereof. In this connection applicant explained that he is uncertain whether the response to the added service will be as great as anticipated by the Commanding Officer of the Naval Station; that in the circumstances he is willing to operate the service for a trial period to ascertain what the actual results will be, but that he is unwilling to become committed to further operation of the service if experience by the end of the trial period shows that the out-of-pocket costs are not being earned. Regarding the determination to be made concerning whether the out-of-pocket costs are being earned, applicant offered to make his records available to the Commission's staff for such determination, and said that he would abide by the staff's findings in this regard.

The Commanding Officer of the Naval Station, who participated in the proceeding as an interested party, concurred in the sought condition, and asked that the requested authority be granted to become effective as soon as possible.

The authorization of the sought service was likewise supported by a representative of the City of Long Beach, who urged that applicant be permitted to establish the proposed service at the earliest possible date.

On the record here presented, we conclude that the additional service which applicant seeks to establish should be authorized. Although it is evident that at this point the service is experimental in nature, with the need for it not clearly defined, it appears that there are reasonable prospects for the development of the service to where it will be a contributing factor to the maintenance of applicant's total common carrier operations. It

further appears that in the meantime the need for the service can be tested without unduly burdening applicant's other services. In view of the experimental nature of the test, the condition which applicant seeks appears reasonable. Subject to this condition we find that the service which applicant seeks to establish between the above-described housing projects and the U. S. Naval Station at Terminal Island is required by public convenience and necessity. Authority for the establishment of such service subject to the fares, routes, schedules, and conditions as proposed will be granted. In view of the requests that the service be established as soon as possible, the order herein will be made effective ten days after the date hereof, and the tariff and timetable filings which are made pursuant to the order may be made effective five days after the effective date of the order.

Pete Drake 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, such rights 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.

For purposes of convenience the operating authority which is herein granted to applicant will be incorporated with

other operating authority which applicant holds, and the combined authorities will be restated in the order which follows. In this connection investigation by an engineer of the Commission's staff has disclosed that the routes over which Pete Drake is conducting his operations at present do not wholly conform to his authorized routes. It appears that for the most part reconstruction work in the Long Beach Harbor area such as the closure of bridges and the realignment of roadways has caused the route changes which have been made. These changes will be reflected in the operating authority hereinafter granted. Representatives of the Cities of Long Beach and Los Angeles have indicated their concurrence in this action.

O R D E R

Based on the evidence of record and on the findings contained in the preceding opinion,

IT IS HEREBY ORDERED:

1. That a certificate of public convenience and necessity be, and it is, granted to Pete Drake authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the transportation of persons and their baggage between the points and along the routes set forth in Appendix A, attached hereto and by this reference made a part hereof, subject to the conditions and restrictions set forth in said Appendix A.

2. That the certificate of public convenience and necessity granted by this order supersedes all existing certificates of

public convenience and necessity or other passenger stage operating authority heretofore granted to or acquired by Pete Drake, which certificates and/or authority are hereby revoked, said revocation to become effective concurrently with the effective date of the filings required by paragraph 3(b) hereof.

3. That in providing service pursuant to the certificate herein granted, Pete Drake shall comply 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, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs and timetables satisfactory to the Commission.
- (c) The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.

- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98.

4. That within 75 days but not sooner than 60 days after inauguration of the service identified as Route No. 6 in Appendix A hereto the Commission's Transportation Division, through a member or members thereof, shall review the financial results of the operation of said service and determine and report to the Commission, to applicant, and to other appearances of record in this matter whether the service is returning the out-of-pocket costs thereof. The out-of-pocket costs to be considered in this determination are those which have been so designated in Footnote No. 1 hereinabove. The costs upon which the determination of the out-of-pocket costs shall be made shall be consistent with those which the Commission has found to be reasonably applicable to Pete Drake's common carrier services in its Decision on Application No. 44175 by which Pete Drake seeks authority to make certain increases in his fares.

5. In the event that the Commission's Transportation Division shall find and report, as a result of its review of the aforesaid service, that the out-of-pocket costs of the service are not being earned, Pete Drake may discontinue the operation of said service after ten days' notice to the Commission and to the public (the public notice to be posted conspicuously in his buses) and after amendment of his tariff and timetables upon ten days' notice to the Commission and to the public to reflect the discontinuance of service.

6. The authority which is granted by Paragraph 5 of this Order shall expire unless exercised within 60 days after the aforesaid report of the Commission's Transportation Division has been served upon Pete Drake.

7. This order shall become effective ten days after the date hereof.

Dated at San Francisco, California, this 12th day of June, 1962.

Charles A. [Signature]
President
[Signature]
[Signature]
George H. Hoover
Friedrich B. Halbach
Commissioners

Appendix A

PETE DRAKE
doing business as
TERMINAL ISLAND TRANSIT CO.

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CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Issued by California Public Utilities Commission.

Decision No. 63798, Application No. 44257.

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Decision No. 6379S, Application No. 44257.

SECTION 1. GENERAL AUTHORIZATIONS

The certificate hereinafter noted supersedes all operative authority heretofore granted to Pete Drake, doing business as Terminal Island Transit Co.

Pete Drake, doing business as Terminal Island Transit Co., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport passengers within or between the Cities of Long Beach and Los Angeles (harbor) and environs, serving the termini and all intermediate points along the routes as hereinafter described, subject to the following provisions:

- (a) Motor vehicles may be turned at termini and 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 rules.
- (b) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) Restrictions
 - (1) No local passengers may be picked up or discharged between a point situated on Anaheim Street approximately 600 feet east of Mahar Avenue, in Wilmington, and any point westerly thereof on route served by applicant.
 - (2) No passengers shall be carried locally between the eastern entrance to the pontoon bridge over Cerritos Channel and applicant's terminus in the City of Long Beach, provided that this restriction shall not apply between the hours of 12 midnight and 6 a.m.

Issued by California Public Utilities Commission.

Decision No. 63795, Application No. 44257.

SECTION 1. GENERAL AUTHORIZATIONS (Continued)

(c) Restrictions (Continued)

- (3) When using Alternate Route No. 3, no passengers shall be carried locally between the intersection of Henry Ford Boulevard and Ocean Avenue on Terminal Island and applicant's terminus in the City of Long Beach, excepting passengers originating at or destined to the plants of the Ford Motor Company and General Petroleum Company on Henry Ford Boulevard.
- (4) When using the Freeway Route, no passengers shall be carried locally between the entrance and exit ramps to the Freeway on Terminal Island and applicant's terminal in Long Beach, both points inclusive.
- (5) Alternate Route No. 3 between East San Pedro and Long Beach via Anaheim Street may be used between the hours of approximately 6 a.m. and 7:30 a.m. and between the approximate hours of 4:45 p.m. and 6:30 p.m. daily, and at other times when passage over the pontoon bridge spanning Cerritos Channel is not possible.
- (6) No stop shall be made to pick up or discharge passengers on any Freeway or Freeway on-ramp or off-ramp.

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Decision No. 63798, Application No. 44257.

SECTION 1. GENERAL AUTHORIZATIONS (Continued)

(d) Consolidation of Routes

Except as authorized below, applicant shall not, without the prior consent and authority of the Commission, consolidate any two or more of its routes or operate any combination of two or more routes:

Applicant's routes may be consolidated so as to provide direct service to or from any point on said routes on Terminal Island.

This authority shall not be construed to permit applicant to provide through service between Wilmington and Long Beach via Terminal Island.

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Appendix A

PETE DRAKE
doing business as
TERMINAL ISLAND TRANSIT CO.

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SECTION 2. ROUTE DESCRIPTIONS

ROUTE NO. 1 - EAST SAN PEDRO

Commencing at U. S. Federal Reservation, on
Reservation Point, Terminal Island, thence
along South Seaside Avenue and Terminal Way
to East San Pedro Ferry Building.

Return via reverse of above route to point
of beginning.

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SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE NO. 2 - EAST SAN PEDRO-LONG BEACH VIA PONTOON BRIDGE

Commencing at the eastern terminus of Seaside Avenue, in the City of Los Angeles, at East San Pedro Ferry Building on Terminal Island, thence along Terminal Way, Tuna Street, South Seaside Avenue, North Seaside Avenue, West Seaside Avenue, in the City of Long Beach, Ocean Boulevard, Chestnut Avenue, Broadway, and Pacific Avenue to Ocean Boulevard, City of Long Beach.

Return via Ocean Boulevard, West Seaside Avenue, North Seaside Avenue, South Seaside Avenue, and Terminal Way to East San Pedro Ferry Building, Terminal Island, in the City of Los Angeles.

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Decision No. 63793, Application No. 44257.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE NO. 3 - EAST SAN PEDRO-LONG BEACH VIA ALTERNATE ROUTES

Commencing at the eastern terminus of Seaside Avenue, in the City of Los Angeles, at East San Pedro Ferry Building on Terminal Island, thence along Terminal Way, Tuna Street, South Seaside Avenue, North Seaside Avenue, West Seaside Avenue (in City of Long Beach), Terminal Island Freeway, West Anaheim Street, Santa Fe Avenue, 9th Street, Long Beach Freeway, Broadway, and Pacific Avenue to Ocean Boulevard, City of Long Beach.

Return via Ocean Boulevard, Long Beach Freeway connection, Long Beach Freeway, 9th Street, Santa Fe Avenue, West Anaheim Street, Terminal Island Freeway, West Seaside Avenue, North Seaside Avenue (City of Los Angeles), South Seaside Avenue and Terminal Way to East San Pedro Ferry Building.

Also, from the intersection of Dock Street and Terminal Way, City of Los Angeles, via Dock Street, Ocean Avenue, Mormon Street, and New Dock Street to Henry Ford Boulevard.

Also, via the Terminal Island Freeway between the entrance and exit ramps on Terminal Island, on the one hand, and the exit and entrance ramps to and from Anaheim Street, on the other hand, including the entrance and exit ramps connecting the Terminal Island Freeway with Henry Ford Boulevard.

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Decision No. 6379S, Application No. 44257.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE NO. 4 - EAST SAN PEDRO-WILMINGTON

Commencing at the eastern terminus of Seaside Avenue, in the City of Los Angeles, at East San Pedro Ferry Building on Terminal Island, thence along Terminal Way, Tuna Street, South Seaside Avenue, West Seaside Avenue (City of Long Beach), Henry Ford Boulevard, and Anaheim Street to Avalon Boulevard, in the City of Los Angeles.

Return via reverse of above route to South Seaside Avenue and Tuna Street, thence via South Seaside Avenue and Terminal Way to East San Pedro Ferry Building, City of Los Angeles.

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Decision No. 63798, Application No. 44257.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE NO. 5 - PIER "E" ON-CALL SERVICE

Commencing at the intersection of West Seaside Boulevard and the entrance to Pier "E", City of Long Beach, via unnamed street to the Pier "E" docks, and return via reverse thereof.

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Decision No. 6379S, Application No. 44257.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

ROUTE NO. 6 - CABRILLO/SAVANNAH NAVY HOUSING
AREAS-TERMINAL ISLAND

Commencing in the Cabrillo/Savannah Navy Housing Areas, in the City of Long Beach, thence via San Gabriel Avenue, Pacific Coast Highway, on-ramp to Terminal Island Freeway, Terminal Island Freeway, West Seaside Avenue, to Gate 9 of U. S. Naval Station, in the City of Los Angeles.

Return via reverse of above route to Terminal Island Freeway off-ramp to 20th Street, City of Long Beach, and into the Cabrillo/Savannah Navy Housing Areas.

End of Appendix A

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