

ORIGINALDecision No. 67371

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TANNER MOTOR TOURS, LTD.,)
 a corporation, for authority to increase)
 rates for passenger fares for its)
 services covered by Local Passenger)
 Tariffs, California Public Utilities)
 Commission Numbers 19 and 20.)

Application No. 44957
 (Filed November 21, 1962)

W. A. Knight and C. Clifford Riggs, for the applicant.
Robert W. Russell and K. D. Walpert, for the Department
 of Public Utilities and Transportaton, City of Los
 Angeles, interested party.
Elinore Charles and A. C. Porter, for the Commission
 staff.

O P I N I O N

The applicant herein is engaged in the transportation of passengers in sightseeing and other services in the Los Angeles area, utilizing 80 motor coaches and two Volkswagon Micro buses. Applicant requests an emergency order authorizing the applicant to increase its rates and fares for sightseeing and racetrack service. It is alleged that operating losses have increased greatly since the last rate relief received in 1958 and that bus operations are not providing a reasonable return. It is requested that all fares be raised to the level they were before the Federal Transportation Tax was repealed on November 16, 1962.

Public hearings in this matter were held before Examiner Fraser on July 9, 1963, in San Francisco, and on October 10 and 11, 1963, in Los Angeles. It was submitted on the last mentioned date subject to the filing of a late-filed exhibit, which was received on October 22, 1963.

The parties agreed that the 10 percent Federal transportation tax was eliminated from bus fares on November 16, 1962, and that the applicant herein has continued to charge the rates which

were applicable before the Federal tax was canceled.

The application applies to approximately twenty-five sight-seeing tours in addition to the applicant's racetrack service to Santa Anita, Hollywood, Los Alamitos, Pomona and other tracks in the Los Angeles area. The tours are offered from September 16 to June 14 under a Winter-Spring Schedule (Exhibit 17) and from June 15 to September 15 under a Summer Schedule (Exhibit 18) and provide short trips to Hollywood movie studios and homes of the movie stars, trips to Pasadena, Long Beach, Palm Springs, Santa Barbara, Disneyland, Knotts Berry Farm, Marineland of the Pacific, San Diego, various beaches and other points of interest down to the Mexican border.

The comptroller of the applicant, a certified public accountant, testified that the applicant is in desperate need of a rate increase and as of June 30, 1963, including the proposed increase of 10 percent, it had an operating loss of \$18,600, and that if the proposed rate increase were excluded the loss would be approximately \$60,000. He stated the engineering report placed in evidence by the Commission staff reveals that the applicant suffered an operating loss of \$39,026 for the twelve months ending December 31, 1962, with an operating ratio of 101.9 percent (Exhibit 14, first column on Page 15).

The witness further testified that this application was filed in November of 1962 after a conference with Public Utilities Commission officials in San Francisco. The representatives of the applicant, who attended this conference, were advised that it was permissible for the applicant to charge the augmented fares provided an application was immediately filed to show the need for increased revenue and provided the extra money was placed in a special fund until the application was decided by the Commission. The witness testified that the applicant has made no attempt to conceal the rates it has been forced to charge due to its desperate need for

additional revenue and that the additional sum collected on each rate, which is equal to the former tax, has been placed in a special fund which is carried on the books of the applicant. He stated that this fund is designated as a tax liability to differentiate it from the other entries. It was requested that the Commission issue an interim order approving the rates presently charged and authorizing them from the date on which they were first charged by the applicant.

Staff counsel made a motion to dismiss the application and requested that the Commission issue an interim decision ordering the applicant to charge its tariff rates; to make an accounting to the Commission on all monies collected since November 15, 1962, and to hold any excess money collected in a special fund until further order of the Commission.

A transportation engineer testified for the Commission staff and introduced his report in evidence as Exhibit No. 14. The witness stated his report shows the applicant's estimated results of operation under its authorized tariff rates and under the proposed rates (which the applicant is now charging the public and has requested the Commission to authorize) for a twelve-month period ending on April 30, 1964. This estimate is based on a projection of the income and expenses noted in the applicant's books for the last full year of operation, which terminated on December 31, 1962. He further testified that the expenses listed by the applicant for the year 1962 were adjusted on the projection by increasing labor costs, prorating supervisory and administrative expense, since the applicant manages several businesses with the same personnel, adjusting the repairs entry of the applicant to exclude tires and maintenance, considering property rented by the applicant from an affiliate as property owned by the applicant and by making certain other adjustments to conform

with the methods of computing operating expenses and rate base used by the Public Utilities Commission.

The staff computation on present and proposed revenue as shown below is taken from page 6 of Exhibit 14. The applicant is now receiving the proposed revenue as it has been charging the requested increase. The Caliente operation is separated because it is under the jurisdiction of the Interstate Commerce Commission.

TANNER MOTOR TOURS, LTD.
Estimated Revenue for Year Ending April 30, 1964
Application No. 44957

:Acct. : :No. :	Title	: Present: : Revenue:	: Proposed : : Increase :	: Proposed : : Revenue :
3211	Sightseeing - Los Angeles	\$1,051,100	\$105,110	\$1,156,210
3212	Race Track "	114,950	11,500	126,450
3210	Charter "	529,370	-	529,370
3211	Sightseeing - San Diego	32,810	3,280	36,090
3210	Charter " "	29,330	-	29,330
3900	Other	25,300	-	25,300
		<u>\$1,782,860</u>	<u>\$119,890</u>	<u>\$1,902,750</u>
3212A	Caliente	250,440	-	250,440
		<u>\$2,033,300</u>	<u>\$119,890</u>	<u>\$2,153,190</u>

The staff's estimated results of operation for the same projected period are given as follows:

Estimated Results of Operation Under Present and Proposed Fares
For the Year Ending April 30, 1964

Item	Bk. Record Year End. 12-31-62	Present Fares			Proposed Fares		
		Total	Common	Caliente	Total	Common	Caliente
		Carrier	Operation	Caliente	Carrier	Operation	Caliente
Net Before Income Taxes	\$ <u>(38,926)</u>	\$142,860	\$ 8,680	\$134,180	\$253,960	\$ 8,680	\$245,280
Income Taxes	100	17,890	<u>(630)</u>	18,520	78,600	610	77,990
Net Income	\$ <u>(39,026)</u>	\$124,970	\$ 9,310	\$115,660	\$175,360	\$ 8,070	\$167,290
Operating Ratio %	101.9	93.9	96.3	93.5	91.9	96.8	91.2
Rate Base	-	\$785,030	\$143,400	\$641,680	\$785,030	\$143,400	\$641,680
Rate of Return %	-	15.9	6.5	18.0	22.3	5.6	26.1

(Red Figure)

The staff witness further testified that the applicant received its most recent rate increase by Decision 57441, dated October 7, 1958 (Application 39903), which found an operating ratio of 93.6 percent and a rate of return of 15.6 percent to be reasonable. He testified that an operating ratio of approximately 93 percent has been held to be reasonable in other Commission decisions which concern passenger carrying operations similar to that of the applicant. He stated that this fact, plus the results of operation set forth in the table above, has prompted him to recommend that the request for increased fares be denied on the basis that the present fares are adequate and reasonable.

The applicant's vice president of operations testified as follows: he was employed by the applicant in 1961 as an automotive counselor to improve its maintenance program and decrease its operating costs; he instituted a maintenance program in 1962 requiring expensive major repairs which should have been done in prior years, but were not; these repairs, although necessary, were not allowed by the Commission staff in its estimate of operating expenses, which works a hardship on the applicant; the staff has allowed a total of \$124,960 (account 4140, page 7, Exhibit 14) for repairs to revenue equipment during the projected year ending on April 30, 1964, and \$55,410 (account 4150, page 7, Exhibit 14) for servicing revenue equipment; the applicant's books show actual expenses for the first four months of the projected year (May 1 to August 31, 1963) to be \$114,500 on repairs and \$73,400 on servicing; it is therefore obvious that the actual operating expenses the applicant will incur during the projected year will be far in excess of the estimated total allowed by the Commission staff; applicant's records further show that the projected future (1959) expenses allowed by the staff in Application No. 39903 (Decision 57441 previously mentioned),

decided in 1958, were inadequate and considerably less than the actual expenses incurred during 1959.

The comptroller of the applicant further testified as follows: the staff has allotted \$68,780.91 as the cost to applicant for "structures, office and garage buildings" (page 13 of Exhibit 14) in the staff computation of rate base, whereas the applicant's books show an original cost of \$275,000; the staff allowed \$500 for the purchase of franchise rights, although the applicant's records show an expenditure of \$20,000; certain revenue equipment used by the applicant is not in the staff report (Exhibit 14) and the applicant has set forth such equipment in Exhibit 9; applicant, in computing its rate base, took the staff's estimated rate base of \$785,050 and made certain adjustments thereto; the staff's estimate of \$20,093.55 for depreciated cost of structures, office and garage buildings, was increased to \$39,932; the staff's estimate of \$3,100 for materials and supplies was increased to \$22,434, and applicant included the depreciated cost of certain equipment (Exhibit 9) not taken into consideration by the staff in its report, in the amount of \$93,476; applicant arrived at a rate base of \$917,729 for its total common carrier operations as shown in Exhibit 12. This rate base, as used by the applicant in Exhibit 13, is shown below to illustrate the applicant's estimate of operating ratio and rate of return at the present and proposed rates.

Results After Applying Adjusted Rate Base
To Net Income As Stated By P.U.C. Staff
Application No. 44957

	<u>Present Fares</u>		<u>Proposed Fares</u>			
	Total Common Carrier	Caliente Operation	Total Less Caliente	Total Common Carrier	Cal. Oper.	Total Less Cal.
Net Income before Taxes	\$142,860	\$8,680	\$134,180	\$253,960	\$8,680	\$245,280
Less deprec. on Assets Not on P.U.C. Report	43,544	-	43,544	43,544	-	43,544
Net Income before Taxes	\$ 99,316	\$8,680	\$ 90,636	\$210,416	\$8,680	\$201,736
Income Taxes per P.U.C. Ratio	21,750	1,900	19,850	76,213	3,140	73,069
Difference to U.S. Rates Charged	24,394	2,613	21,781	27,703	1,373	26,334
Net Income	\$ 53,172	\$4,167	\$ 49,005	\$106,500	\$4,167	\$102,333
Operating Ratio	97.4	98.3	97.3	95.1	97.1	94.6
Rate Base	917,729	167,623	750,106	917,729	167,623	750,106
Rate of Return	5.8	2.5	6.5	11.6	2.5	13.6

The representatives of the City of Los Angeles cross-examined all witnesses but presented no evidence. All of the parties made closing statements. The staff and the City of Los Angeles requested that the application be denied. The applicant stated that if the application is denied the applicant may continue to suffer such severe losses that it will be necessary to eliminate or to reduce considerable of its service to the public and if this occurs a needed public service will be affected, since the applicant is the only company in Southern California organized to provide continuous sight-seeing service.

It is evident that the applicant has been steadily losing money as its revenues decline and its operating expenses increase and that the 10 percent the applicant has added to its rates has not eliminated its operating loss. We are of the opinion that our primary duty herein is to endeavor to protect the specialized service offered to the public by the applicant and that it is possible to consider the applicant's need for a rate increase as a separate and distinct issue from the applicant's unauthorized action of increasing its rates without first obtaining authorization from this Commission.

Upon consideration of the evidence the Commission finds that:

1. The transportation tax of 10 percent imposed by the Federal Government was repealed on November 15, 1962.

2. The applicant has added 10 percent to each rate charged, without authorization from this Commission, since the repeal of the Federal transportation tax and has advertised (Exhibits 15 and 16), charged and collected these augmented rates and has retained the unauthorized 10 percent surcharge.

3. The applicant has violated Section 454 of the Public Utilities Code by increasing its rates without first obtaining authorization from this Commission.

4. The applicant has maintained a record of the amounts of the 10 percent surcharge collected by its office, terminals and agents and has designated the total thereof as a liability entry against the applicant's general fund. The funds collected as the 10 percent surcharge have not been kept in a separate account.

5. Applicant's estimate of results under present and proposed fares is fair and reasonable and should be adopted.

6. The increase in fares requested in this application is justified.

7. The deferred maintenance program recently instituted by the applicant is necessary although much of the maintenance work should have been done in prior years.

8. It is impractical to order the applicant to refund the extra 10 percent to all customers carried since November 16, 1962, due to the difficulty of distributing the refund and the fact that a great number of those using the applicant's "sight-seeing services" are from foreign countries or distant parts of the United States.

9. An investigation should be instituted by the Commission for the purpose of determining whether the monies unlawfully collected by the applicant should be disbursed, or forfeited to the State of California.

10. The applicant should retain all monies collected as described and identified in Findings 2 and 3 herein in a special fund, as a trustee for the Commission, until the termination of the investigation referred to in the preceding paragraph.

Based upon the above findings of fact, we conclude that:

1. The motion to dismiss the application should be denied.
2. The motions of the applicant and the Commission staff for an interim order should be denied.
3. The application should be granted as provided in the following order.

O R D E R

IT IS ORDERED that:

1. The motion to dismiss the application is hereby denied.
2. The motions of the applicant and the Commission staff for an interim order are hereby denied.
3. Tanner Motor Tours, Ltd., a corporation, is authorized to establish and publish in its tariffs the increased fares proposed

in its application filed herein. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than one day after the effective date hereof on not less than one day's notice to the Commission. Notice to the public will not be required.

4. Tanner Motor Tours, Ltd., a corporation, is hereby directed to establish a trustee account and to retain therein all monies collected as described in Findings 2 and 3 herein.

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

Dated at San Francisco, California, this 12th day of June, 1964.

*I dissent.
The action
herein estab-
lished a bad
precedent and
constituted a
law violation
by a carrier's
Everett W. George
Commissioner.*

[Signature] President

George W. Hoover

Frederick B. Holchoff

Commissioners