

ORIGINALDecision No. 69368

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of VIRGINIA BENINI to extend certain service, to discontinue certain service along a portion of a route, and to discontinue service on certain holidays.

Application No. 47342
(Filed February 17, 1965)
(Amended March 2, 1965)

In the Matter of the Application of VIRGINIA BENINI for the transfer to HIGHLAND PATTON BUS LINES, a California corporation, of a certificate of public convenience and necessity and the right to operate a passenger bus stage line in the City of San Bernardino, County of San Bernardino, and vicinity, and for a permit authorizing HIGHLAND PATTON BUS LINES to sell and issue its securities. (Amended Title)

Application No. 47399
(Filed March 9, 1965)
(Amended April 13, 1965;
amended May 10, 1965)

Lawrence A. Eutton, for applicants.
Boyd Emrick, for Southern California
Rapid Transit District, interested
party.
W. R. Kendall and E. C. Crawford, for
the Commission staff.

O P I N I O N

The above applications, as amended, were consolidated for hearing held on April 22, 1965, in San Bernardino before Examiner Chiesa. Oral and documentary evidence having been adduced, the matters were submitted for decision.

By Application No. 47342, as amended, authority is sought (1) to discontinue, except for school trips, that portion of its Victoria Gardens Route along 'Del Rosa Avenue, 9th Street,

Victoria Avenue, Cypress Street and Lankershim Road to its intersection with 9th Street," (2) to establish an additional service from its Del Rosa Route along Sterling Avenue, Foothill Drive, Arden Avenue and Pacific Street to Sterling Avenue to be known as the Foothill-Arden Route, (3) to operate along Victoria Street between Baseline Street and 9th Street for school trips, and (4) to discontinue service on the following holidays: New Year's Day, Memorial Day, Labor Day, Thanksgiving, and Christmas.

Applicant Benini's operations manager testified in support of the application and was cross-examined by a Commission staff member. No evidence was presented in opposition to the application. Several letters of protest were received by the Commission, however, the writers entered no appearance at the hearing, although notice of hearing was mailed them.

The evidence shows that:

Along the route proposed to be abandoned, a distance of 3.8 miles, the average daily number of outbound and inbound passengers was twelve and ten, respectively, for the six days of Monday, April 12, through Saturday, April 17, 1965. Five round trips daily were operated, or an average of between two and three passengers per trip in each direction. Per mile out-of-pocket operating cost is 33.2 cents while the revenue from the portion of the route to be discontinued was approximately 17 cents.

A survey of the area where applicant proposes to establish a new line shows that there are approximately 1,816 residences and 49 apartment buildings along the route. The witness based his belief that the line will be compensatory upon

the similarity of the area to the present Del Rosa route and the inquiries and requests for the service which he has received. Fares on said line will be similar to those of the Del Rosa route and comparable fare break points will be established. Other route changes are necessary in order to serve schools in the area.

Discontinuance of the holiday service is requested because of lack of patronage and the higher out-of-pocket costs on holidays.

By Application No. 47399, Virginia Benini seeks authority to sell and transfer her passenger stage operation and business to Highland Patton Bus Lines, a California corporation, recently incorporated, in consideration of the issuance to her of 36,000 shares of capital stock of the par value of \$1.00, and a promissory note in the sum of \$633.08 payable on or before July 10, 1965.^{1/} The reason for the transfer is a desire to operate in the corporate form. The business will continue to be managed by L. A. Van Steenwyk, the present manager, who was the witness testifying in behalf of the applicants and is the son-in-law of the present owner.

A representative of the Commission's Finance and Accounts Division assisted in the development of the record.

A balance sheet as of January 31, 1965, the proposed transfer date, shows total assets of \$58,375.26, liabilities of \$19,172.37, and capital of \$39,202.89. For the year 1964 the operating loss was \$2,340.71 from a total revenue of \$95,484.25.

^{1/} The consideration was changed by the second amendment of May 10, 1965, the original consideration having been 42,000 shares and a \$363.44 promissory note.

Based upon the evidence, the Commission finds that:

1. Public convenience and necessity no longer require that applicant Virginia Benini continue to operate the passenger stage service, except for school trips, along that portion of the Victoria Gardens Route beginning at the intersection of Baseline and Del Rosa Avenues, thence along Del Rosa Avenue, 9th Street, Victoria Avenue, Cypress Street and Lankershim Road to its intersection with 9th Street, nor continue to render service on the following holidays: New Year's Day, Memorial Day, Labor Day, Thanksgiving and Christmas.

2. Public convenience and necessity require the establishment and operation of a passenger stage service by an extension from the present Del Rosa Route, beginning at the intersection of Highland and Sterling Avenues, thence along Sterling Avenue, Foothill Drive, Arden Avenue and Pacific Street to its intersection with Sterling Avenue; also, for school trips only, along Victoria Street between Baseline and 9th Street.

3. The proposed transfer by Virginia Benini to Highland Patton Bus Lines, a corporation, would not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the stock and indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The application will be granted.

The authorization herein granted shall not be construed

as a finding of the value of the rights and properties authorized to be transferred.

For clarification, a certificate of public convenience and necessity will be granted to Highland Patton Bus Lines, a corporation, in lieu of the operating authority heretofore granted to or acquired by Virginia Benini, subject to the conditions as set forth in the order. ✓

Highland Patton Bus Lines, a corporation, 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.

O R D E R

IT IS ORDERED that:

1. On or before July 31, 1965, Virginia Benini may sell and transfer, and Highland Patton Bus Lines, a corporation, may purchase and acquire, the operative rights and property referred to in the application, and in consideration therefor Highland Patton Bus Lines, a corporation, may issue not to exceed 36,000 shares of its capital stock at the par value of \$1.00 per share.

2. Within thirty days after the consummation of the transfer herein authorized, Highland Patton Bus Lines 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, and shall also file a report or reports, as required by General Order No. 24-3, which order, insofar as applicable, is hereby made a part of this order.

3. A certificate of public convenience and necessity is granted to Highland Patton Bus Lines, a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes more particularly set forth in Appendix A, attached hereto and made a part hereof.

4. In providing service pursuant to the certificate herein granted, Highland Patton Bus Lines shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, Highland Patton Bus Lines 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 it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules of the California Highway Patrol, the 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 safety rules, or 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, Highland Patton Bus Lines shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.

5. Applicants shall amend or reissue the tariffs and timetables on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that Virginia Benini has withdrawn or canceled, and Highland Patton Bus Lines has adopted or established, as its own, said rates, rules and regulations. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the consummation of the transfer herein authorized. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98.

6. On or before the ninetieth day after the consummation of the sale and transfer herein authorized, Highland Patton Bus Lines shall cause to be filed with this Commission in such form as the Commission may prescribe an annual report, or reports, of Virginia Benini covering the calendar year 1964 and 1965 to the date of consummation of said sale and transfer.

7. The certificate of public convenience and necessity granted in paragraph 3 of this order supersedes all existing certificates of public convenience and necessity authorizing the transportation of persons heretofore granted to or acquired by Virginia Benini, which certificates (See Decisions Nos. 65745 and 68590) are hereby revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 4(b) hereof.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 7th
day of July, 1965.

Fredrick B. Helleff
President

John E. Helleff

George H. Grover

Augusta

William L. Bennett
Commissioners

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 under authority of Decision No. 69368
dated July 7, 1965, of the Public
Utilities Commission of the State of California, on
Applications Nos. 47342 and 47399.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS AND SPECIFICATIONS

The certificate hereinafter noted supersedes all operative authority heretofore granted to Virginia Benini, doing business as Highland-Patton Bus Lines, or her predecessors.

Highland-Patton Bus Lines, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers within the City of San Bernardino and between San Bernardino and adjacent areas, serving the termini and all intermediate points, along the routes as hereinafter described, subject to the following provisions and restrictions:

- (a) 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, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operation in either direction, unless otherwise indicated.
- (c) No passenger shall be transported whose points of origin and destination are both along E Street and/or Base Line Street, west of the intersection of Base Line Street and Mountain View Avenue.

Issued by the California Public Utilities Commission.

Decision No. 69368, Applications Nos. 47342 and 47399.

SECTION 2. ROUTE DESCRIPTIONS

Subject to the authority of this Commission to change or modify such at any time, Highland-Patton Bus Lines shall conduct its passenger stage operations between the following points and over and along the following described routes:

Route #1 - Highland-Patton Route

Commencing at the intersection of F Street and Second Street, in the City of San Bernardino; thence along Second Street, E Street, Fourth Street, Mountain View Avenue, Base Line Street, Waterman Avenue, Gilbert Street, Perris Hill Park Road, Pacific Avenue, Osburn Road, Base Line Road, Palm Avenue, Highland Avenue (Patton State Hospital), Victoria Avenue, Base Line Road to Osburn Road; thence along the going route to the intersection of Second Street and E Street; thence along E Street, Rialto Avenue, F Street to the point of beginning.

Also, from the intersection of Base Line Road and Central Avenue, along Central Avenue and Pacific Avenue to its intersection with Palm Avenue. (School trips only.)

Route #2 - Del Rosa Route

Commencing at the intersection of F Street and Second Street, in the City of San Bernardino; thence along Second Street, E Street, Base Line Street, Base Line Road, Sterling Avenue, Highland Avenue, Golden Avenue, Thirty-ninth Street, Del Rosa Avenue to its intersection with Highland Avenue; thence along the going route to the intersection of Second Street and E Street; thence along E Street, Rialto Avenue, F Street to the point of beginning.

Also, from the intersection of Alto Drive and Mountain Avenue along Alto Drive, Camellia Drive and Los Flores Drive to its intersection with Del Rosa Avenue. (School trips only.)

Issued by California Public Utilities Commission.

Decision No. 69368, Applications Nos. 47342 and 47399.

SECTION 2. ROUTE DESCRIPTIONS (Continued)

Route #3 - Foothill-Arden Route

Commencing at the intersection of F Street and Second Street, in the City of San Bernardino; thence along Second Street, E Street, Base Line Street, Base Line Road, Sterling Avenue, Foothill Boulevard, Arden Avenue and Pacific Avenue to its intersection with Sterling Avenue; thence along the going route to the intersection of Second Street and E Street; thence along E Street, Rialto Avenue, F Street to the point of beginning.

Route #4 - Victoria Gardens Route (School trips only.)

Commencing at the intersection of Second Street and F Street, in the City of San Bernardino; thence along Second Street, E Street, Base Line Street, Base Line Road, Del Rosa Avenue, Ninth Street, Victoria Avenue, Cypress Street, Lankershim Road to its intersection with Ninth Street; thence along the going route to the intersection of Second Street and E Street; thence along E Street, Rialto Avenue, F Street to the point of beginning.

Also, along Sterling Avenue between Base Line Road and Ninth Street.

Also, along Valaria Street between Base Line Road and Ninth Street.

Also, from the intersection of Cypress Street and Victoria Avenue; thence along Cypress Street and Palm Avenue to its intersection with Base Line Road.

Also, along Victoria Avenue between Base Line Road and Ninth Street.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 69368, Applications Nos. 47342 and 47399.