

ORIGINAL

Decision No. 69670

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAN DIEGO ECONOMY LINE,)
INC., a corporation, for authority to)
amend their certificate of public con-)
venience and necessity granted under)
Decision No. 67201. }

Application No. 47610
(Filed May 25, 1965)

Freddie L. Allen, for applicant.

Scales, Patton, Ellsworth & Corbett, by Leon W. Scales, for San Diego Transit System, protestant.

Fred G. Ballenger, for the Commission staff.

O P I N I O N

Applicant seeks the elimination of the operating restrictions along its route between Lakeside and San Diego. The principal intermediate communities and route now served by said route are El Cajon, Homeland, Spring Valley, Lemon Grove and the College Grove Shopping Center (Decisions Nos. 67201 and 68845).

The restrictions sought to be eliminated are (Appendix A, Original Pages 2 and 3, Decision No. 67201):

- "(c) Passengers whose origin and destination are both west of Euclid Avenue shall not be transported.
- (d) Passengers whose origin is at any point north of Chase Avenue (El Cajon-Lakeside areas)* shall not be transported to points west of College Grove Shopping Center.
- (e) Passengers whose origin is at any point west of College Grove Shopping Center (San Diego area)* shall not be transported north of Chase Avenue."

*(parentheses added.)

San Diego Transit System has protested the application on the grounds that for many years it has been adequately serving the territories where said restrictions apply and that their removal would further deplete its revenues.

A public hearing was held in San Diego on July 22, 1965, before Examiner Chiesa.

Applicant's president and one public witness testified in support of the application. Several petitions were also presented for filing which were signed by persons stating that they were interested in the granting of the application. However, none appeared as witnesses. Protestant's president testified in opposition. No evidence was presented by the Commission staff.

The evidence shows that:

The restrictions placed on applicant's operations along this route have been in issue before this Commission on at least four prior occasions^{1/} and on each occasion the matter has been resolved against the applicant.

^{1/} Decision No. 40900, dated November 12, 1947, imposed original restriction on predecessor's route; Decision No. 60338, dated June 28, 1960, in lieu certificate, restriction retained and enlarged; Decision No. 61657, dated March 14, 1961, removal of restrictions denied; Decision No. 65261, dated April 23, 1963, in lieu certificate, restriction retained; Decision No. 66423, dated December 3, 1963, restriction retained and revised; Decision No. 67201, dated May 12, 1964, in lieu certificate, restrictions retained; Decision No. 67761, dated August 25, 1964, removal of restrictions denied. All decisions of this Commission granted to applicant or its predecessors and decisions granted to protestant which authorize operations along routes and in territories common to both carriers were placed in evidence by reference, although the Commission takes official notice of its own previous rulings.

In Decision No. 67761, dated August 25, 1964, the Commission said:

"From the Commission's records and the prior decisions of this Commission concerning Economy (applicant herein),* of which we take official notice, and the record herein, it appears, and we find, that the existing restrictions were placed in effect to protect Transit (protestant herein),* which is providing adequate service, in its San Diego to El Cajon service from losing revenues to the subsequently certificated Economy; that anyone desiring to go into San Diego from any place served by Economy is and will continue to be able to be transported to or from San Diego by a combination of the Economy and Transit services; and that there was no showing made, as required by Section 1032 of the Public Utilities Code, upon which the Commission could grant applicant's request to remove the existing restriction.

"Upon the record herein, the Commission finds that the application for authority to remove the restrictions on San Diego Economy Line, Inc., should be denied."

*(parentheses added).

Applicant's president estimated that if the restrictions were removed, applicant's gross revenues would increase \$476 per month. Said estimate was nothing more or less than the witness' opinion and was not supported by other evidence. He stated that there have been inquiries concerning transportation to a Little League ball park and a police pistol range, located in the restricted area; however, there is no substantial evidence of record to justify the removal of or change in any restriction for the purpose of serving said facilities.

A vice president and general manager of a large department store situated in downtown San Diego and at the College Grove Shopping Center, testifying for applicant, stated that some

shoppers and employees might desire to ride applicant's bus from restricted areas to the downtown store. No survey was made and the witness did not know how many employees, if any, would avail themselves of the opportunity. Applicant is now permitted to transport passengers between the College Grove Shopping Center and any point on its line, and also between the downtown store and any point between Euclid Avenue and Chase Avenue.

The Commission, having again considered the matter, finds that:

1. Restriction (c) hereinabove is justified as protestant operates 47 schedules on Lines S and F along Market Street as far east as Wabash Avenue, all of said trips being along the major portion of applicant's restricted route in that territory.

2. Restrictions (d) and (e) are justified because protestant has for many years been operating between the El Cajon territory and downtown San Diego and now provides 34 round trips on its Line E. Said restrictions enable protestant to retain a source of revenue from a service which it pioneered before applicant or its predecessors were in business in the territory.

3. Removal of these restrictions would enable applicant to tap an important and necessary source of protestant's revenue.

4. The removal of said restriction is not in the public interest.

Based upon the evidence and findings, the Commission concludes that applicant's request for the removal of said restrictions has not been justified. The application will be denied.

ORDER

IT IS ORDERED that Application No. 47610 of San Diego Economy Line, Inc., a corporation, be, and it hereby is, denied.

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

Dated at Los Angeles, California, this 14th day of SEPTEMBER, 1965.

Fredrick B. Holbrook
President

John J. Mitchell

George L. Hoover

Augustus

William L. Brundage
Commissioners