

**ORIGINAL**Decision No. 70570

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 AIRPORTTRANSIT, a corporation, for )  
 the extension of its certificate of )  
 public convenience and necessity as )  
 a passenger stage corporation. )

Application No. 48237  
 (Filed February 8, 1966)

Ivan McWhinney, for applicant.  
Milton McKay and John Curtis for Southern  
 California Rapid Transit District,  
 protestant.  
D. H. Boyles, for Airport Coach Service,  
 interested party.  
R. W. Russell by K. D. Walpert, for  
 City of Los Angeles, interested party.  
E. R. Kendall, for the Commission staff.

**O P I N I O N**

This application was heard before Examiner Robert Barnett at Los Angeles on March 8, 1966, on which date it was submitted. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestant is Southern California Rapid Transit District (District); protestant requests that a proposed report be issued. The City of Los Angeles and Airport Coach Service appeared as interested parties.

Applicant is a passenger stage corporation presently transporting airline passengers, and their baggage, generally between certain described points in the Los Angeles and Hollywood territory, on the one hand, and Los Angeles International Airport, Ontario International Airport, and Lockheed Air Terminal, on the other hand. Applicant requests authority to extend such passenger stage operation so as to transport passengers between the Los Angeles and Hollywood

territory presently served by it, and the Anaheim Stadium in Anaheim, California, site of the California Angels home baseball games. The service is to be rendered only on days when major league baseball games are scheduled at Anaheim Stadium. The District has published a schedule for service from its terminal at 6th and Main St., Los Angeles, to Anaheim Stadium. A comparison of applicant's fares and service schedule with the District's fares and service schedule is as follows:

For 8:00 P.M. Game Time  
(Other game times would have  
comparable service schedules)

| APPLICANT                                    |           | DISTRICT  |           |
|--|-----------|---|-----------|
| Lv. Continental Hotel<br>(Sunset Strip)      | 6:15 P.M. | Lv. Los Angeles (6th<br>& Main Terminal)                                  | 6:00 P.M. |
| Lv. Hollywood-Roosevelt<br>Hotel (Hollywood) | 6:30 P.M. | Lv. Norwalk   | 6:30 P.M. |
| Lv. Biltmore Hotel<br>(L.A.)                 | 6:45 P.M. | Lv. Buena Park<br>(two stops)   | 6:45 P.M. |
| Lv. Statler-Hilton<br>Hotel (L.A.)           | 6:50 P.M. | Make three to eight<br>stops between<br>Buena Park and<br>Anaheim Stadium |           |
| Ar. Anaheim Stadium                          | 7:30 P.M. | Ar. Anaheim Stadium   | 7:10 P.M. |

Both applicant and District will reverse their respective routes starting one half hour after game ends.

| Applicant's Fare (Roundtrip) |        | District's Fare (one-way)         |        |
|------------------------------|--------|-----------------------------------|--------|
| From Hollywood Area          | \$5.00 |                                   |        |
| From L.A. Area               | 2.50   | From L.A. Area                    | \$1.25 |
|                              |        | (half fare for children under 12) |        |

Applicant presented its managing director of sales and services plus the managers of the four hotels which will constitute its terminals. Its managing

director testified that there is a need for the proposed service to Anaheim Stadium as there is no comparable service. Hotels and tour operators desire the proposed service. The applicant has three kinds of vehicles that could be used in the proposed service, depending upon demand. These vehicles have a capacity range from 9 passengers to 45 passengers. Presently, these vehicles are being used in applicant's certificated and charter operations but they have excess capacity which can be utilized in the proposed service. At each of the four terminals applicant will have agents who will take reservations for the trip to Anaheim Stadium. Prior to departure time from the Continental Hotel, these agents will notify the supervisor in charge of this operation of any reservations taken to assure that a vehicle large enough to accommodate the anticipated passenger load will be dispatched. Whether or not reservations are made a vehicle will be dispatched on schedule to receive any passengers who might appear at the terminals desiring transportation to Anaheim Stadium. If no more than one person desires transportation, the vehicle will make the round trip. Applicant will operate and serve every major league baseball game at Anaheim Stadium during the 1966 season: 56 night games starting at 8:00 P.M.; 29 day games starting at 1:00 P.M.; and 2 evening games starting at 5:00 P.M. Applicant will start its run one hour and forty-five minutes prior to game time. Running time checks have been made for this route and the proposed schedule should permit sufficient leeway for traffic tie-ups. Fares for the service will be \$3.00 round-trip from the two Hollywood area hotels and \$2.50 round-trip from the two downtown Los Angeles hotels. The witness did not know what costs were considered when the level of fares was determined, nor did he know what the break-even point might be. No estimate was made as to the

number of persons who would use the service. In the witness' opinion, applicant has the financial ability to render the service herein proposed and to continue its present services unimpaired.

The managers of four hotels, Continental, Hollywood-Roosevelt, Biltmore, and Statler-Hilton, testified in support of the application. Their testimony was substantially similar; the proposed service would benefit tourism in general and their hotels in particular; their guests would probably not ride District buses to the Stadium if that were the only form of public transportation available; Anaheim Stadium should prove to be a tourist attraction for at least a year, irrespective of the caliber of the baseball team; and there will be guests (of an unspecified number) who will request the service.

Protestant presented one witness, an engineer. He testified substantially as follows: the District, a public corporation, has the statutory duty to meet the transportation needs in its area. To fulfill this duty the Board of Directors of the District determined that expedited service to Anaheim Stadium was in the public interest and authorized the bus service and fares shown in the table on page 2.<sup>1</sup> The service which applicant proposes is in conflict with, and is not authorized by the Southern California Rapid Transit District Act of 1964. Applicant's proposed service will be detrimental to the revenues and services of the District and directly competitive with the District's service to Anaheim Stadium. The District has the bus equipment and drivers on hand to handle

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<sup>1</sup> This service is for all ball games and other major events; however, no other major events are presently scheduled.

additional traffic demands. Further, applicant's service would duplicate bus service and diminish the revenues earned by the District in its Hollywood territory<sup>2</sup> and its Los Angeles territory. There is no significant difference between its kind of bus service to Anaheim Stadium and the kind of service proposed by applicant. In addition, District service is coordinated with its services to the City of Anaheim and Disneyland, all of which would be impaired and detrimentally affected. Based on District's experience in transporting passengers to the Angel games at Dodger Stadium in Los Angeles, the market will not be great for service to Anaheim Stadium.<sup>3</sup> Any dilution of this market will hurt the District. The witness concluded that in his opinion public convenience and necessity did not require the proposed service.

#### Discussion

At the outset, the District asserts that the proposed service is in conflict with, and is not authorized by the Southern California Rapid Transit District Act of 1964 (Public Utilities Code Sections 30000 et seq.). However, no language in the Act to such effect is cited and independent research has not uncovered authority for such a broad statement. Rather, it appears

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<sup>2</sup> A patron may travel to Anaheim Stadium from Hollywood on District buses by taking a bus from Hollywood to the District's terminal at 6th and Main Sts. and then taking the Anaheim Stadium bus. The distance from the Hotel Continental to 6th and Main Sts., Los Angeles, is approximately twelve miles. It takes a District bus about an hour to make this trip and the cost is 41 cents one way.

<sup>3</sup> Less than one per cent of patrons traveled on public buses; attendance at games ranged from 1,500 persons to 32,000 persons.

that the principles enunciated in L.A.M.T.A. v. F.U.C., 52 C.2d 655 (1959) are applicable in this case. In L.A.M.T.A. the Supreme Court of California held that the Act under which the District's predecessor operated "does not expressly curtail the (Public Utilities) Commission's power to grant new certificates of public convenience and necessity in Los Angeles County, nor does it expressly provide that public convenience and necessity do not require additional privately-operated public transit services in that area. Moreover, we have concluded that such provisions may not be implied from the powers granted to the Authority, the declaration of policy, or both." (52 C.2d at 663.) The court went on to say that it is proper for the Commission to authorize service that the Authority is not presently willing or able to provide. (52 C.2d at 665.)

A comparison of applicant's proposed service with the District's shows that the two offerings are dissimilar as to route and travel time, and serve different segments of the traveling public. A trip from the Hollywood area to Anaheim Stadium, using District facilities, would consume approximately two hours (depending upon starting point) and require one change of buses. Applicant's service would make the same trip in one hour and fifteen minutes with no change of buses. From a starting point in downtown Los Angeles applicant makes the trip in forty minutes with no stops while the District makes the trip in one hour and ten minutes with at least three, and possibly eight, stops.

As important as the difference in routes and travel time between the two services is the difference in the segment of the traveling public each service will attract. Applicant's proposed

service will rely primarily on tourists staying at the four hotels on its route (although all who appear will be carried). There was testimony to the effect that this type of patron is interested in convenience and rapidity of service. This group would not avail itself of the District's service even if this application were denied; especially those in the Hollywood area, who would have to change buses in downtown Los Angeles in order to make the trip on District facilities.

Rather than relying on hotel guest patronage, the evidence shows that the District is relying to a great extent on traffic from Norwalk, Buena Park, and points East. Dilution of the District's potential traffic in the Los Angeles area, other than hotel guests, appears minimal as the District's fares from downtown Los Angeles are more flexible and attractive than applicant's.

Applicant's proposed service is somewhat speculative in nature, but that reason alone is not sufficient to deny it the opportunity to exploit this new point of interest. However, the proposed service must not be permitted to impair applicant's other services to the public. The Commission will grant the authorization herein requested and in so doing the Commission admonishes applicant that if it should appear in a rate proceeding that the revenue derived from this service is not compensatory, such revenue inadequacy is not to be imposed on applicant's other services.

Findings of Fact

1. Applicant possesses the experience, equipment, personnel, and financial resources to institute and maintain the proposed service.

2. Applicant's proposed service will place more convenient and efficient transportation facilities within the area it proposes to serve than those provided by the District. Applicant's proposed service traverses a route and pick-up points that are materially different from the route and pick-up points offered by the District.

3. Applicant's proposed service will draw upon a segment of the traveling public that would not normally utilize the District's facilities for trips to Anaheim Stadium. Applicant's proposed service will not be likely to reduce patronage of the District.

4. Applicant proposes a deluxe type through service whereas the District proposes a local transit type service.

5. Public convenience and necessity require that the application be granted in the manner set forth in the ensuing order.

The request for a proposed report is denied.

The Commission concludes that the application should be granted as set forth in the ensuing order.

Applicant 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. A certificate of public convenience and necessity is hereby granted to Airporttransit, a corporation, authorizing it to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code, for the transportation of passengers between the Hollywood and Los Angeles Territories and Anaheim Stadium as set forth in Third Revised Page 2, Third Revised Page 5, Fifth Revised Page 4, and First Revised Page 10, attached hereto, as an extension and enlargement of and consolidation with, and subject to all the limitations and restrictions set forth in, its current authority.

2. Appendix A of Decision No. 59259, as heretofore amended, is further amended by incorporating therein Third Revised Page 2, Third Revised Page 5, Fifth Revised Page 4, and First Revised Page 10, attached hereto, in revision of Second Revised Page 2, Second Revised Page 5, Fourth Revised Page 4, and Original Page 10.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, 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-A and insurance requirements of the Commission's General Order No. 101-A. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-A, may result in a cancellation of the operating authority granted by this decision.

- (b) Within sixty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than three days after the effective date of this order on not less than three 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-A.

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

Dated at San Francisco, California, this 13th day of APRIL, 1966.

Frederick B. Holdcroft  
President

John L. Mitchell

George D. Trover

Augustin

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

|            | <u>INDEX</u>   | <u>Page No.</u> |
|------------|--|-----------------|
| Section 1. | GENERAL AUTHORIZATIONS, etc. . . . .   | 3               |
|            | Turning vehicles at termini, etc. . . . .  | 4               |
|            | Passenger restrictions . . . . .   | 4               |
|            | Pick-up and discharge points . . . . .   | 4               |
|            | "On-Call" service . . . . .  | 5               |
| Section 2. | DESCRIPTION OF TERRITORIES   |                 |
|            | Los Angeles territory . . . . .  | 8               |
|            | Hollywood territory . . . . .  | 8               |
|            | West Los Angeles territory . . . . .   | 8               |
|            | San Fernando Valley territory . . . . .  | 9               |
|            | Inglewood-Hawthorne territory . . . . .  | 9               |
|            | Commerce territory . . . . .   | 9               |
| Section 3. | ROUTE DESCRIPTIONS   |                 |
|            | (1) San Bernardino, Redlands,<br>Riverside, Fontana -<br>Ontario and Los Angeles<br>Airports . . . . . | 10              |
|            | *(2) Los Angeles, Hollywood Territories -<br>Anaheim Stadium . . . . .                                 | 10              |

Issued by California Public Utilities Commission.

\*Added by Decision No. 70570, Application No. 48237.

7. between the Los Angeles International Airport, on the one hand, and the Ontario International Airport, on the other hand, including service to and from said airports and the intermediate points of El Monte, West Covina, Covina, Pomona, Montclair and Ontario and the off-route points of the Los Angeles County Fairgrounds; and
8. between the City of Glendale, on the one hand, and the Ontario International Airport, on the other hand; and
9. between the City of Commerce, on the one hand, and the Los Angeles International Airport, on the other hand,
10. between the Cities of San Bernardino, Redlands, Riverside and Fontana, on the one hand, and the Ontario International Airport, and Los Angeles International Airport, on the other hand. Express may also be transported between these points.
11. between the Los Angeles Territory as hereinafter described, on the one hand, and the Steamship Docks located in the Cities of Los Angeles and Long Beach, on the other hand.
- \*12. between the Los Angeles and Hollywood Territories as hereinafter described, on the one hand, and Anaheim Stadium, on the other hand.

The authority herein granted is subject to the following conditions and restrictions:

All service except Routes Nos. 1 & 2.

- 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. Only airline and steamship passengers and employees, employees of the Department of Airports of the City of Los Angeles, and the Department of Airports of the City of Ontario and their baggage, shall be transported.
- c. Passengers shall be picked up and discharged only at points and places to be named in applicant's tariff and situated within the territories and cities hereinabove-named.

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\*Added by Decision No. 70570, Application No. 48237.

- d. Hollywood Park Race Track service shall be rendered only on days when thoroughbred and harness races are scheduled.
- e. No service is authorized to or from the Catalina Island Terminal at Wilmington or San Pedro.
- f. When service is rendered on an "on-call" basis, tariffs and timetables of Airporttransit shall show the conditions under which such "on-call" service will be rendered.
- g. Subject to the authority of this Commission to change or modify such passenger stage operation at any time, Airporttransit shall conduct such operation over and along the most direct or appropriate route or routes, subject, however, to local traffic regulations.

h. Route No. 1 only:

- (1) No passenger shall be transported whose origin or destination is a point other than the points and places authorized, and all passengers shall either be destined to or originate at one of said airports.
- (2) No express shall be transported except expedite baggage, mail or newspapers, and said express shall be transported on passenger-carrying vehicles and limited to a weight of not more than 100 pounds per shipment.
- (3) Passengers shall be picked up or discharged in accordance with local traffic regulations. Specific points shall be named in applicant's tariff.

\*i. Route No. 2 only:

- (1) Service shall be rendered on days when major league baseball games are scheduled at Anaheim Stadium.
- (2) Service shall be rendered on a round trip basis only.
- (3) Specific pickup points within the Los Angeles and Hollywood Territories shall be named in applicant's tariff.

Issued by California Public Utilities Commission.

\*Added by Decision No. 70570, Application No. 48237.

Section 3. ROUTE DESCRIPTIONS:

ROUTE (1) - San Bernardino, Redlands,  
Riverside - Ontario and  
Los Angeles Airports:

Commencing in the City of San Bernardino;  
thence via the most direct and appropriate  
route, or routes, to the Ontario International  
Airport, serving Redlands, Riverside, and  
Fontana as intermediate points; thence via  
the most direct and appropriate route, or  
routes, to the Los Angeles International  
Airport.

\*ROUTE (2) - Los Angeles, Hollywood Territories-  
Anaheim Stadium.

Commencing in the Los Angeles and Hollywood  
Territories, thence via the most direct and  
appropriate route or routes to the Anaheim  
Stadium.

Issued by California Public Utilities Commission.

\*Added by Decision No. 70570, Application No. 48237.