

ORIGINAL

Decision No. 71673

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of EUGENE R. BOSWELL, dba COUNTY TRANSIT LINES, for certificate of public convenience and necessity to operate a passenger service between Danville, Alamo, Walnut Creek, Pleasant Hill, Concord, Pacheco, Martinez, County of Contra Costa, State of California, and points between.

Application No. 48647  
Filed July 21, 1966

Walter H. Medak, for Eugene R. Boswell, applicant.  
Owen G. Stanley, Jr., for himself; Edmund M. Steacy,  
for Walnut Creek Manor residents; Mark L. Kermit,  
for Contra Costa County; and David W. Baker, for  
City of Concord, interested parties.  
Milton J. DeBarr and Hilton H. Nichols, for the  
Commission staff.

O P I N I O N

This application was heard before Examiner Fraser at Walnut Creek on September 23, 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. Application No. 48538, filed on June 6, 1966, by Alfred H. Crooks, dba Dachshound Charter Lines, requested authority to serve in the same area as Boswell and both applications were consolidated for hearing. Application No. 48538 was dismissed by Decision No. 71352, dated October 4, 1966, at the request of Mr. Crooks. There are no protests to Application No. 48647.

Applicant requests authorization under the provisions of Section 1031 of the Public Utilities Code to institute and conduct operations as a passenger stage corporation for the transportation

of passengers between Walnut Creek, Concord, Pleasant Hill, Martinez, Alamo and Danville, all in Contra Costa County. Applicant presently does not possess any authority to transport passengers within the State of California.

The applicant proposes to provide a Monday through Friday service, excluding legal holidays. An adult fare of 35 cents is proposed with a 10-cent transfer fee and a child's fare (from 5 to 12 years of age) of 15 cents; students up to 17 years of age will also be carried for 15 cents on the days and during the periods school is in session; children under five years of age are to be transported without charge.

Applicant testified as follows: He has a college degree from the University of Pennsylvania with a major in Public Transportation and has been in the business of operating a bus line since 1937; he operated passenger stage corporations at Boone and Marshalltown in Iowa from 1939 to 1952 and in Ogden, Utah, with a partner, from May of 1952 to January of 1966; he moved to Walnut Creek and discovered that Contra Costa County has no intracounty bus service; the only service available is directed to points outside of the county; he made a personal survey of needed service in the county and discovered that some school children cannot get adequate bus service, that many users of Greyhound Lines would prefer to ride a bus from home to the Greyhound Depot, that the Walnut Creek area has several thousand retired people who especially appreciate and will use an adequate bus service, that transportation to the county hospital and the Veteran's Hospital in Martinez is not available except by taxi or privately owned vehicle, and finally that the Bay Area Rapid Transit District will not exercise its right to operate feeder buses to its terminals if an adequate bus system is already serving

the area and his four proposed routes are very similar to those recommended to A. C. Transit in 1958 by the firm of De Leuw, Cather and Co.; Route No. 1 would serve Walnut Creek and Concord over Ygnacio Valley Road, Oak Grove Road and Meadow Lane; it would proceed through downtown Walnut Creek to the Walnut Creek Greyhound Depot, John Muir Hospital, past a Concord shopping area to the Concord Greyhound Depot; there would be 10 schedules in each direction on weekdays, to start at 6:15 a.m. and to conclude at 6:15 p.m.; Route No. 2 also would serve Walnut Creek and Concord over Pleasant Hill and Willow Pass Road, connect downtown Walnut Creek and the Walnut Creek Greyhound Bus Depot with Diablo Valley Junior College and the Pleasant Hill and Concord Greyhound depots. There would be 11 schedules in each direction, the first bus to leave at 5:45 a.m. and the last bus to leave at 6:45 p.m.; Route No. 3 would proceed from Danville to Martinez and the Veteran's Hospital, through downtown Walnut Creek and Pleasant Hill; the bus would pass the Walnut Creek and Pleasant Hill Greyhound depots; seven schedules are planned in each direction, from 5:30 a.m. to 5:30 p.m.; Route No. 4 would be within the City of Concord and would proceed from the Concord Greyhound Depot out Clayton Valley Road to Clayton Valley Center and return as well as out Willow Pass Road to a residential area north of Clayton Valley Road; there would be 15 schedules a day with service from 5:30 a.m. to 7:30 p.m. When Bay Area Rapid Transit District trains start to operate, service would be extended to serve all BART stations in the area; the applicant has already ordered three new 37-passenger buses, with full air conditioning, from the General Motors plant at Pontiac, Michigan; they have been promised by the end of December but it will be necessary to go to Michigan and drive them to the West Coast; a number of used buses

will also be purchased. Applicant is now checking dealers for some good used equipment. He has made a \$1,500 down payment on the new buses; each will cost \$19,000 or a total of \$57,000, to be paid off in five years at 8 percent interest; the secondhand buses will cost about \$4,000 each and will not be air conditioned. Applicant estimated his net worth, in his application, at \$104,000 with no liabilities, as follows:

Financial Statement

Assets

Cash .....	\$ 7,000.00
Stocks and Bonds .....	50,000.00
Real Property	
Walnut Creek .....	25,000.00
Ogden, Utah .....	12,000.00
Personal Property	
Auto, Furniture, Fixtures .....	10,000.00

Liabilities .....

None

Net Worth .....

\$104,000.00

Applicant stated that he will obtain operating capital to start his operation by borrowing on his 8 percent interest in a family holding corporation worth approximately one million dollars; its net income after taxes in 1965 was almost \$40,000; he also holds a half interest in a \$100,000 trust subject to a life estate of his mother; his credit is established at several banks and with General Motors Company; he has no current liabilities and does not owe any money at present, except for the new buses; he expects to lose \$12,000 or \$15,000 in the first year of operation and considers this normal under the circumstances; he estimates his total operating costs at about 40 cents a mile and that his buses will cover 800 miles in a day, which amounts to \$320 per day (40 x 800), or \$1,600 operating expense per week; he has been advised that a 35-cent fare may be too

high, especially since it applies equally to a ride of one block or a ride to the end of the line; he may reduce the fare in the future and provide for further reductions on the basic fare for those who ride only a short distance but zone fares require special tickets, create additional expense and cause more work for the bus drivers; he therefore decided to wait until his company is operating to determine whether a change in fares is necessary; he has also been advised that other bus companies have started service in the county and have been forced to discontinue operations after being faced with financial losses; he feels he is in a much better financial position than previous local operators; the last failure was a number of years ago and the county now has a much larger population and the need for some local service is critical; and most important, the Bay Area Rapid Transit District has indicated it will actively support local passenger stages which provide a means of transporting people to and from the transit stations; if BART were not to provide service in the near future, he would not have filed this application, since he believes rapid transit will develop the area to the extent that an adequate bus line providing good service would have sufficient patronage to insure a profitable operation. The applicant placed Exhibit 1 in evidence, which is a map outlining the four proposed routes. Copies of this exhibit were distributed at the hearing. He further testified that he and his mother now reside in Walnut Creek and plan to remain there. The applicant selected February 1, 1967 as the earliest date he could start his bus service.

A certified public accountant testified for the Commission and placed Exhibit 2 in evidence. The exhibit outlines the applicant's financial position and provides a summarization as follows:

EUGENE R. BOSWELL,  
dba County Transit Lines

Statement of Financial Position  
(As of September 7, 1966)

ASSETSCurrent Assets

Cash in Bank			
United California Bank 8-12-66	\$5,398.74		
Bank of Utah 8-2-66 .....	<u>444.45</u>	\$	5,843.19
Note Receivable, W. H. Dodds .....			500.00
Cash Value of Life Insurance Policies .....			<u>4,000.00</u>
Total Current Assets .....			10,343.19

Other Assets

Real Estate, Walnut Creek Residence (at cost) ..			24,950.00
Automobile, Personal Effects, Furniture .....			10,000.00
Mortgage Receivable, Home in Ogden, Utah .....			9,243.54
Securities, Common Stock in Stilwell Company at Estimated Market Value (Notes 1-3) .....			<u>80,000.00</u>
Total Other Assets .....			124,193.54
 TOTAL ASSETS .....			 134,536.73

LIABILITIESCurrent Liabilities

NET WORTH ..... 134,536.73

1. Ownership interest in Stilwell Company consists of 40 shares, or 8 percent of the stock issued and outstanding. Net worth of this company on an original cost basis as of November 30, 1965 was \$714,868. Present net worth on a current market value is estimated by the applicant as one million dollars.
2. In addition to the assets listed on the Statement of Financial Position, the applicant has a one-half remainder interest in E. J. Stilwell Trust, Minneapolis. The net worth of this trust as of November 30, 1965 was \$111,009 on an original cost basis.
3. Net income after taxes for the Stilwell Company and for the E. J. Stilwell Trust, Minneapolis, for the year ended November 30, 1965 was \$38,471.64 and \$13,524.51, respectively.

The witness testified that the statement was prepared from information received from Mr. Boswell dated September 7, 1966. He further testified that the applicant has no current liabilities, according to the information presented, and that substantial amounts of money could be borrowed on the applicant's interest in the trust fund and a company worth approximately one million dollars. Closing statements were made by several of the parties. All were in favor of bus service, if it is adequate and properly managed. It was noted that two areas catering to retired people have located in Walnut Creek with a capacity of more than 10,000 residential units, and that those who now reside in these areas have promised to support the proposed service.

Upon consideration of the evidence the Commission finds as follows:

1. Applicant possesses the experience and financial resources to institute and maintain the proposed service.
2. Applicant has initiated the purchase of necessary equipment and will hire personnel as soon as the equipment is received.
3. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

Eugene R. Boswell 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 granted to Eugene R. Boswell, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. 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 he accepts the certificate of public convenience and necessity herein granted, he 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-B. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-B, 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 tariffs and timetables, in triplicate, in the Commission's office.
- c. 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 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.
- e. Applicant shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission, and shall file on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of DECEMBER, 1966.

Peter E. Whitcomb  
President

George E. Grover

Augustin

Fredrick E. Hoblitt

William M. Bennett  
Commissioners

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Appendix A

EUGENE R. BOSWELL  
doing business as  
COUNTY TRANSIT LINES

Original Page 1

CERTIFICATE  
of  
PUBLIC CONVENIENCE AND NECESSITY

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

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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. 71673  
dated December 6, 1966, of the Public Utilities  
Commission of the State of California, in  
Application No. 48647.

## SECTION 1. General Authorizations, Restrictions, Limitations and Specifications

Eugene R. Boswell, doing business as County Transit Lines, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, by motor vehicle, between various places in Contra Costa County including Danville, Alamo, Walnut Creek, Pleasant Hill, Concord, Pacheco, Martinez and intermediate points over and along the routes hereinafter described, subject to the following conditions and restrictions:

- (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 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.

Issued by California Public Utilities Commission.

Decision No. 71673, Application No. 48647.

SECTION 2. Route DescriptionsRoute No. 1 - Walnut Creek-Concord via Ygnacio Valley

Commencing at the intersection of Mt. Diablo Boulevard and South Main Street, in the City of Walnut Creek, thence via Mt. Diablo Boulevard, South Broadway, South Main Street, Civic Drive, Ygnacio Valley Road, Walnut Drive, Wiget Lane, Cedro Lane, Oak Grove Road, Meadow Lane, Market Street, Willow Pass Road, Grant Street, Concord Boulevard and Mt. Diablo Street to its intersection with Willow Pass Road.

Route No. 2 - Walnut Creek-Concord via Pleasant Hill

Commencing at the intersection of Mt. Diablo Boulevard and South Main Street, in the City of Walnut Creek, thence via Mt. Diablo Boulevard, South Broadway, South Main Street, North Main Street, Ygnacio Valley Road, Hillside Avenue, Parkside Drive, Buena Vista Avenue, San Luis Road, Larkey Lane, Geary Road, Putnam Boulevard, Patterson Boulevard, Boyd Road, Contra Costa Boulevard, Gregory Lane, Pleasant Hill Road, Mercury Way, Apollo Way, Taylor Boulevard, Morello Avenue, Viking Drive to Diablo Valley College, Viking Drive, Contra Costa Boulevard, Willow Pass Road, Grant Street, Concord Boulevard and Mt. Diablo Street to its intersection with Willow Pass Road.

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Route No. 3 Danville - Walnut Creek - Martinez

Commencing at the intersection of Diablo Road and Danville Boulevard in the City of Danville; thence via Diablo Road, Prospect Avenue, Danville Boulevard, South Main Street, North Main Street, Interstate Highway 680, Buskirk Avenue, Monument Boulevard, Contra Costa Boulevard, Pacheco Boulevard to Jones Street in the City of Martinez; thence via Jones Street, Pine Street, Main Street, Berrellessa Street, Alhambra Avenue, Arnold Industrial Highway and Muir Station Road to the Veterans' Administration Hospital.

Route No. 4 - Concord Area

Commencing at the intersection of Grant Street and Concord Boulevard, in the City of Concord; thence via Concord Boulevard, Colfax Street, Clayton Road, Washington Boulevard, Michigan Boulevard, El Camino Drive and Clayton Road to its intersection with Washington Boulevard. Also, from the intersection of Grant Street and Concord Boulevard; thence along Grant Street, Willow Pass Road, Landana Drive, Concord Boulevard, Thornwood Drive, Wilson Lane and West Street to its intersection with Concord Boulevard.

Issued by California Public Utilities Commission.

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