

Decision No. 71884

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BILLY JOE RAINWATER and KAYWOOD)
 MONTGOMERY RAINWATER, as co-partners)
 dba CHICO-PARADISE STAGE LINES, to)
 sell, and MILLARD E. DIVINE and)
 WALTER L. ENTLER, co-partners dba)
 CHICO TRANSIT LINES, to purchase)
 an automotive passenger and express)
 line operated between CHICO and)
 PARADISE and intermediate points,)
 and to extend service and also to)
 conduct a sight seeing service.)

Application No. 48822
 (Filed September 26, 1966;
 Amended October 17, 1966)

Application of HERBERT BLASER)
 (Villa Sightseeing Tours) for)
 a Certificate of Public Convenience)
 and Necessity to operate a Sight-)
 seeing Passenger Stage service be-)
 tween Oroville, Chico and)
 Paradise, Calif.)

Application No. 48686
 (Filed August 3, 1966)

Marjorie R. Rainwater, for Billy Joe Rainwater;
Millard E. Divine and Walter L. Entler, for
 themselves, applicants in Application No. 48822.
Herbert Blaser, for himself, applicant in Appli-
 cation No. 48686.
Hilton H. Nichols, for the Commission staff.

O P I N I O N

By amended application filed October 17, 1966, Billy Joe Rainwater and Kaywood Montgomery Rainwater, doing business as Chico-Paradise Stage Lines, seek to sell and Millard E. Divine and Walter L. Entler, doing business as Chico Transit Lines, to purchase the operating rights of Chico-Paradise Stage Lines. Chico-Paradise Stage Lines provides transportation between Paradise and Chico. Chico Transit Lines provides transportation in and around the City of Chico. Chico Transit Lines also seeks authority to operate a sightseeing service between Chico, Paradise and Oroville Dam. By Application No. 48686 Herbert Blaser (Villa Sightseeing Tours)

seeks a certificate of public convenience and necessity to operate a sightseeing passenger stage service between Oroville, Chico and Paradise.

Due to the competitive nature of the applications they were consolidated and public hearing was held before Examiner Porter on November 1, 1966 at Chico and the matters were submitted. The evidence presented by Chico-Paradise Stage Lines and Chico Transit Lines was to the effect that their separate operations are too small to compensate the individual operators adequately and that having one carrier provide this transportation would permit more efficient and economical operations through interchange of equipment and personnel and through reduced overhead costs. Chico-Paradise Stage Lines formerly operated a taxi service in Paradise which helped subsidize Chico-Paradise Stage Lines. Divine and Entler wish to extend the Chico-Paradise service to Oroville, where connections can be made with Greyhound buses, which do not serve Chico, and also where the county hospital is located. Applicants feel there would be sufficient patronage to support this extension, but seek it on a 120-day trial basis to determine its economic feasibility. The sightseeing tour would be an additional source of revenue. Millard E. Divine, Walter L. Entler and Chico Transit Lines show a combined net worth of \$32,042.50 as of September 10, 1966 (Exhibit A attached to the application).

Herbert Blaser testified that by Decision No. 70880, dated June 21, 1966, he was granted a certificate of public convenience and necessity to operate a tour to points of interest in the immediate Oroville area. A statement of Herbert Blaser's financial condition, as shown by Exhibit E attached to Application No. 48339, indicates a net worth of \$56,158.00 as of March 22, 1966.

Mr. Blaser further testified that during the four months he has been in business he has invested \$5,220.00, including the cost

of extensive advertising among travel agents throughout the country, and carried 21 passengers at \$5.00 per person for an income of \$105.00. Mr. Blaser is the driver of the vehicle used on the tour. He feels that there must be an expansion of his market if the tour is to be a financial success.

After consideration, the Commission finds that:

1. The transfer of operating rights from Billy Joe Rainwater and Kaywood Montgomery Rainwater, doing business as Chico-Paradise Stage Lines, to Millard E. Divine and Walter L. Entler, doing business as Chico Transit Lines, will not be adverse to the public interest.

2. Public convenience and necessity require the extension of the combined service to Oroville.

3. Public convenience and necessity require the extension of sightseeing service as requested by Herbert Blaser.

4. Due to the fact that Herbert Blaser is already established in the sightseeing business in the Oroville area, has promoted the service extensively, and has thus far operated to the satisfaction of the Commission, the request of Chico Transit Lines to operate a sightseeing service to the Oroville area will be denied, in conformity with Section 1032 of the Public Utilities Code.

5. Applicants have the financial resources to provide the services sought in these applications.

Based on the foregoing findings of fact the Commission concludes that the applications should be granted as set forth in the ensuing order.

Millard E. Divine and Walter L. Entler, doing business as Chico Transit Lines, and Herbert Blaser, doing business as Villa Sightseeing Tours, are 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 Herbert Blaser, authorizing the extension and enlargement of service as a passenger stage corporation as that term is defined in Section 226 of the Public Utilities Code, for the transportation of passengers on sightseeing trips as set forth in First Revised Page 1 of Appendix A (Herbert Blaser) attached hereto, and in consolidation with the certificate granted by Decision No. 70880.

2. Appendix A of Decision No. 70880 is amended by incorporating therein First Revised Page 1 in revision of Original Page 1.

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

- (a) Within thirty days after the effective date hereof, Herbert Blaser shall file a written acceptance of the certificate herein granted. Herbert Blaser 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, Herbert Blaser 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) Herbert Blaser 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 with the Commission, 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.

4. On or before June 30, 1967, Billy Joe Rainwater and Kaywood Montgomery Rainwater may sell and transfer and Millard E. Divine and Walter L. Entler may purchase and acquire the certificate of public convenience and necessity acquired by Decision No. 68430, dated January 5, 1965, in Application No. 47116.

5. Within thirty days after the consummation of the transfer herein authorized, Millard E. Divine and Walter L. Entler 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.

6. Applicants (Application No. 48822) shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations herein to show that Billy Joe Rainwater and Kaywood Montgomery Rainwater have

withdrawn or canceled, and Millard E. Divine and Walter L. Entler have adopted or established, as their own, said rates and rules. 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-A.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Millard E. Divine and Walter L. Entler shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the sellers for the period commencing with the first day of the current year to and including the effective date of the transfer.

8. Millard E. Divine and Walter L. Entler are hereby authorized to extend the operating authority, as granted by ordering paragraph 4 hereof to include service from Paradise to Oroville on a 120-day trial basis.

9. In the event the transfer authorized in paragraph 4 hereof is consummated, a certificate of public convenience and necessity is granted to Millard E. Divine and Walter L. Entler, authorizing them 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 (Millard E. Divine and Walter L. Entler) attached hereto and made a part hereof.

10. The certificate of public convenience and necessity granted in paragraph 9 of this order shall supersede the certificates of public convenience and necessity granted by Decisions Nos. 68430 and 70063 which certificates shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 6 hereof.

11. In providing service pursuant to the certificate herein granted, Millard E. Divine and Walter L. Entler shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, Millard E. Divine and Walter L. Entler shall file a written acceptance of the certificate herein granted. Millard E. Divine and Walter L. Entler are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they 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) Millard E. Divine and Walter L. Entler shall maintain their 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 with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

12. Millard E. Divine and Walter L. Entler are denied authority to operate a sightseeing service between Chico, Paradise and Oroville Dam.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1967.

Walter L. Entler
President

William W. Bennett

Augusto

Fred P. Munsey

Commissioners

~~Commissioner~~ WILLIAM SYMONS, JR. did not participate in the disposition of this proceeding.

Section 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS AND SPECIFICATIONS

Herbert Blaser, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers for sightseeing purposes between Oroville, Chico and Paradise and surrounding, areas over the routes hereinafter described subject to the following provisions:

- (a) Service shall be limited to the transportation of continuous round-trip passengers.

Section 2. ROUTE DESCRIPTIONS

Commencing at 1527 Feather River Boulevard, in the City of Oroville, thence via Feather River Boulevard, Montgomery Street, U.S. Highway 70, County Road 149 and U.S. Highway 99-E to the City of Chico; thence via Main Street, Second Street, Normal Avenue, West 1st Street, Warner Street, Legion Avenue, Citrus Avenue, Sowilleno Avenue, Esplanade, Memorial Way, Pine Street, East Fourth Street, Centennial Avenue and East Eighth Street, to U.S. Highway 99-E, viewing Chico State College, Bidwell Mansion, Bidwell Park and Hooker Oak State Historical Monument; thence via U.S. Highway 99-E and Skyway to Paradise thence via Elliot Road, Clark Road, County Highway 191 and U.S. Highway 70 to City of Oroville; thence via Montgomery Street, First Avenue, Broderick Street, Lincoln Street, Montgomery Street, Chico Road to the Fish Barrier Dam, Chico Road, Bridge Street, Quincy Highway, Olive Highway, Hillcrest Drive, Forbestown Road, Hillcrest Drive, Olive Highway, Canyon Drive, Oroville Dam Boulevard, Montgomery Street and Feather River Boulevard to the point of beginning; visiting the Lott Home, Chinese Temple, Fish Barrier Dam, Middle Fork Bridge and Oroville Dam Overlook.

Issued by California Public Utilities Commission.

Changed by Decision No. 71884, Application No. 48686.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

The certificate hereinafter noted supersedes all operative authority heretofore granted to Millard E. Divine and Walter L. Entler.

Millard E. Divine and Walter L. Entler, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to:

- (a) Transport passengers between points and places within the City of Chico and vicinity.
- (b) Transport passengers, baggage and express not in excess of 100 pounds, on passenger carrying vehicles between Chico, Paradise and Oroville and intermediate points.

Operations shall be conducted over and along the routes hereinafter described subject to the following conditions:

- (1) 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.
- (2) When route descriptions are given in one direction, they apply to operations in either direction unless otherwise indicated.

Issued by California Public Utilities Commission.

Decision No. 71884, Application No. 48822.

SECTION 2. ROUTE DESCRIPTIONS

Chico Local Routes:ROUTE #1 - "A" LINE

Commencing at the intersection of Main and East Fourth Streets, north on Main to Esplanade, north on Esplanade to East Third Ave., east on East Third Ave. to Mangrove Ave., south on Mangrove Ave. to East First Ave., east on East First Ave. to Arbutus Ave., south on Arbutus Ave. to Filbert Ave., east on Filbert Ave., to Madrone Street, north on Madrone Street to Hawthorne Ave., west on Hawthorne Ave. to Verbena Lane, north on Verbena Lane to East First Ave., west on East First Ave. to Dow Ave., north on Dow Ave. to Lindo Ave., west on Lindo Ave. to Sherman Ave., south on Sherman Ave. to East Seventh Ave., west on East Seventh Ave. to Palm Ave., north on Palm Ave. to East Eighth Ave., west on East Eighth Ave. crossing Esplanade to Arcadian Ave., south on Arcadian Ave. to West Sixth Ave., west on West Sixth Ave. to Warner Street, south on Warner Street to West Second Ave., east on West Second Ave. to Esplanade, south on Esplanade to Broadway (via Shasta Road), south on Broadway to West Fifth Street.

ROUTE #2 - "B" LINE

Commencing at West Fifth Street and Broadway, south on Broadway to West Eighth Street and Oroville Ave., south on Oroville Ave. to West Eleventh Street, west on West Eleventh Street to Normal Ave., south on Normal Ave. to West Twentieth Street, east on West Twentieth Street across Park Ave. to Mulberry Street, north on Mulberry Street to East Fifteenth Street, east on East Fifteenth Street via Boucher Street to Cleveland Ave., east on Cleveland Ave. to Fetter Street, north on Fetter Street to Virginia Street, west on Virginia Street to Bruce Street, north on Bruce Street to Bartlett Street, north on Bartlett Street to East Eighth Street, west on East Eighth Street to Main Street, north on Main Street to East Fourth Street.

Issued by California Public Utilities Commission.

Decision No. 71884, Application No. 48822.

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Appendix A

MILLARD E. DIVINE AND
WALTER L. ENTLER
doing business as
CHICO TRANSIT LINES

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SECTION 2. ROUTE DESCRIPTIONS (CONTINUED)

SPECIAL SCHOOL SERVICE AREA

Between St. John the Baptist Parochial School,
on the one hand, and points on and along Routes
Nos. 1 and 2, on the other hand.

Chico-Paradise-Oroville

Commencing at the Greyhound Depot, in the City of
Chico, thence via Wall Street, West Seventh Street,
Main Street, East Third Street, Broadway, Ninth
Street, U. S. Highway 99E, Skyway, Pearson Road
and Clark Road to the Paradise Depot; thence via
Clark Road, California Highway 70, Oro Dam Boule-
vard, Myers Street and Mitchell Avenue to the
Greyhound Depot in the City of Oroville. Also,
authority is granted to deviate from the regular
route in Paradise to serve the Adventist School
on Pearson Road and the Catholic School on Elliot
Road.

Issued by California Public Utilities Commission.

Decision No. 71884, Application No. 48822.