

EM

Decision No. 72278

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations,)
rates, charges and practices of)
IRVIN E. HARRIS, an individual,)
doing business as RED HARRIS)
PHOTO.)

Case No. 8582
(Filed January 17, 1967)

In the matter of the application)
of IRVIN E. HARRIS, an individual,)
doing business as RED HARRIS)
PHOTO, of Vallejo, for a permit)
to operate as a charter-party)
carrier of passengers, (File)
No. TCP-407).)

Application No. 49017
(Filed November 18, 1966)

Jack F. Ferguson, for applicant and
respondent.
Donald M. Grant, for the Commission
staff.

O P I N I O N

Irvin E. Harris, doing business as Red Harris Photo, filed an application on November 18, 1966, requesting a permit to operate as a charter-party carrier of passengers. On January 17, 1967, the Commission issued an order instituting an investigation into the operations of Irvin E. Harris to determine whether he has violated Section 1031 of the Public Utilities Code by operating as a passenger stage corporation without a certificate of public convenience and necessity.

The matters were consolidated and a public hearing was held before Examiner Daly on February 27, 1967, at San Francisco.

At the outset of the hearing applicant requested that his application for a charter-party permit be dismissed. The staff thereupon proceeded with its presentation.

The record indicates that Irvin E. Harris is a resident of Rancho Del Mar - McKnight Acres, a subdivision area located approximately six miles from Mare Island. At the instance of some of his neighbors Mr. Harris purchased a 1948, 36-passenger bus from the City of Vallejo in September of 1966. A commute club was formed and Mr. Harris was made president. Membership is limited to residents of the subdivision who work at Mare Island. The club presently consists of 20 members, who pay weekly dues of \$2.50 for the right to be driven each day between their homes and Mare Island. The driver, who is also employed at the Island, is paid \$10.00 a week and a back-up driver is provided with free membership. Mr. Harris does not use the service at present because his working hours at Mare Island do not conform to those of the other workers; however, the bus is registered in his name. He receives all revenues and is responsible for all expenses incurred in the maintenance and operation of the vehicle. Initially the service was operated at a loss, which Mr. Harris personally assumed. At present the service is being operated at a profit of approximately \$5.00 a month. According to Mr. Harris, it is not his intention to operate the service for a profit, but merely as an accommodation for his neighbors. If the operation should result in a profit he testified that the weekly dues would be reduced accordingly.

After consideration the Commission finds:

1. Respondent owns and controls a 1948 model transit bus.
2. The bus is used daily for the purpose of transporting respondent's neighbors between their homes in Rancho Del Mar - McKnight Acres and Mare Island.
3. Each individual pays respondent \$2.50 a week for the right to ride his bus.

4. Respondent is operating a passenger stage between fixed points, as a common carrier for those members of the public living in his neighborhood who are also employed at Mare Island.

5. The service is being provided for compensation regardless of whether charges to the passengers are referred to as dues or fares.

Conclusion

The Commission therefore concludes that respondent is operating as a passenger stage corporation without first having obtained a certificate of public convenience and necessity and is, therefore, in violation of Section 1031 of the Public Utilities Code.

O R D E R

IT IS ORDERED that:

1. Application No. 49017 is hereby dismissed without prejudice.

2. Irvin E. Harris shall cease and desist from operating as a passenger stage corporation as defined in Section 226 of the Public Utilities Code between Rancho Del Mar - McKnight Acres and Mare Island unless or until he obtains a certificate of public convenience and necessity authorizing such operation.

C. 8582, A. 49017 em *

The Secretary is directed to cause personal service of a certified copy of the order to be made upon respondent. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this
11th day of APRIL, 1957.

Edmund G. ...
President
William L. ...
Augusta ...
William ...
Fred P. Monissey
Commissioners