

ORIGINAL

Decision No. 72661

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the rules, regulations, operations, services, facilities, equipment, and equipment safety of NORTHGATE TRANSIT COMPANY, INC.

Case No. 8495

In the Matter of the Application of NORTHGATE TRANSIT CO., INC., for Authority to Increase Fares.

Application No. 45492

Harry N. Grover, for Northgate Transit Co., Inc., respondent.

Albert E. Polonsky, for Daly City; and Robert J. Lockefer and Elton H. Mattoon, for California Highway Patrol, interested parties.

S. M. Boikan, Counsel, for the Commission staff.

O P I N I O N

Case No. 8495 is an investigation on the Commission's own motion to determine whether any or all of the rules, regulations, operations, practices, services, facilities, equipment and safety of equipment of Northgate Transit Company, Inc. (hereinafter referred to as Northgate) are reasonable, adequate and lawful and in compliance with General Order 98-A and Article 2 of Subchapter 6 of Chapter 2 of Title 13 of the California Administrative Code (Safe Operations of Motor Trucks, Truck Tractors, Buses and Towed Vehicles).

Application No. 45492 was an application in which Northgate sought authority to increase its passenger fares. Decision No. 66746 in Application No. 45492 authorized Northgate to raise its fares and required it to (1) replace certain of its buses, which were found to be unsatisfactory, unsafe or improper equipment, with new buses or good used ones, (2) employ a general manager with authority to

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supervise its operations, and (3) institute a system of vehicle maintenance satisfactory to the Commission and the California Highway Patrol. It appeared that questions relating to Northgate's compliance with Decision No. 66746 might also be relevant to the subject matter of Case No. 8495. Therefore, on August 9, 1966, the Commission entered an order reopening Application No. 45492 to determine whether Northgate complied with Decision No. 66746. Case No. 8495 and Application No. 45492 were consolidated for hearing.

A duly noticed public hearing was held in the consolidated matters before Examiner Jarvis in Daly City on January 16 and 17, 1967, and they were submitted on the latter date.

The record discloses that a member of the Motor Carriers Safety Operations Section of the California Highway Patrol conducted vehicle safety checks on Northgate's buses on June 1 and 2, 1965; September 1 and 2, 1965; January 18, 1966; May 23 and 24, 1966; and November 2 and 3, 1966. During these safety checks, the Highway Patrol representative found numerous safety violations (violations of specific sections of the California Vehicle Code or the California Administrative Code) with respect to Northgate's buses.

Section 34501 of the Vehicle Code authorizes the Highway Patrol to adopt regulations prohibiting the movement of trucks, tractors or buses deemed unsafe. Pursuant to that section, the Highway Patrol adopted and promulgated Section 1216(h) of Title 13 of the California Administrative Code, which in part provides that "Authorized employees of the department shall declare and mark 'out of service' any vehicle which by reason of its condition or loading is so imminently hazardous to operate as to be likely to cause an accident or a breakdown." The record discloses that

Northgate buses were placed out of service by an authorized representative of the Highway Patrol as follows:

6/1, 2/65	4 buses
1/18/66	3 buses
5/23, 24/66	6 buses
11/2, 3/66	4 buses

Northgate uses 14 buses to conduct its operations.

Northgate, however, does not own the buses. It conducts operations through self-employed operators (subcontractors) whom it authorizes, under contract, to operate in its service area. Ten of these drivers own their own buses. Four lease the buses which they operate. Only two of the fourteen drivers are Northgate shareholders. Each driver has been responsible for the repair and maintenance of his bus. Each driver is required to contribute twenty dollars a week to Northgate, which is used to defray the expenses of operating the corporation. The driver's retain all fares which they collect. Each driver pays for the repairs, maintenance and insurance on his bus and the gasoline and oil necessary to operate it. Route schedules are arranged so that drivers have appropriate days off. Repairs are generally made on a driver's day off. If it is necessary to take a bus out of service for repairs or maintenance on a day when a driver is scheduled to work, another driver who was supposed to be off duty is called in to cover the route with his bus. In such event, the driver who actually operates his bus keeps the revenue collected for the day. Some drivers repair and maintain their own vehicles, insofar as possible. Other drivers have favorite mechanics or garages which they use for maintenance and repairs.

A supervisor and a member of the Motor Carrier Safety Operations Section of the Highway Patrol and an Associate Transportation Engineer of the Commission's staff all testified that, in their opinion, all of the defects in Northgate's buses, found in the aforesaid Highway Patrol safety checks, would have been discovered and repaired if Northgate had an adequate system of inspection and repairs for its buses.

The evidence indicates that Northgate has cooperated with the Highway Patrol and the Commission's staff. All defects discovered during safety checks have been repaired. However, in the light of the large number of defects which constantly occur in Northgate's buses, endangering the safety of its passengers and the public generally, cooperation after the fact is not sufficient.

The record discloses that, subsequent to the commencement of these consolidated proceedings, Northgate rented a garage which has the capacity to house all of its 14 buses. Presently 12 of its 14 buses are parked there nightly. One of Northgate's owner-drivers, who also does mechanical work, testified that commencing in November, 1966, he had been inspecting all of Northgate's buses, at the garage once every 6 weeks, and that, in the future, he proposed to inspect the buses monthly. The inspection is made in accordance with a Maintenance Inspection Sheet prepared by Northgate. The Highway Patrol safety operations representatives and the staff engineer testified that, if monthly safety inspections were made, in accordance with the Northgate Maintenance Inspection Sheet, this would be adequate for safety purposes.^{1/}

^{1/} The Highway Patrol representatives testified that adequate safety inspections are predicated on time or distance traveled by the vehicle. A monthly inspection by Northgate was said to be adequate, based on the assumption that each Northgate bus travels approximately 3,000 miles per month.

The Commission's staff engineer testified that, in his opinion, Northgate's inspection, maintenance and repair problems could be alleviated if it owned all the buses, leased them to the drivers, and itself paid for and controlled all of the inspection, maintenance and repairs. The staff engineer conceded, and the record shows that Northgate does not have the capital to purchase buses nor is it likely to obtain private financing for this. The record indicates that Northgate and the City of Daly City have had discussions relating to (1) the possibility of the city purchasing buses and leasing them to Northgate, (2) the possibility of a cash subsidy, and (3) the possibility of the use of city facilities for the maintenance and repair of Northgate's buses. However, at the time of the hearing these discussions had been nothing more than that. No agreement had been reached and the likelihood of one in the near future is slight. We deal with the situation as it is.

The record indicates that even if Northgate puts an adequate inspection system into operation, the safety problems heretofore set forth cannot be adequately corrected unless it provides the facilities and is responsible for maintenance and repairs. Presently, maintenance and repairs are done by some drivers while the other drivers have their maintenance and repairs done by "favorite" garages. The costs are borne by each driver. This system presents two problems: (1) Drivers, on occasion delay repairs because they have not properly budgeted for them and (2) When maintenance and repairs are done by third parties, who may be excellent mechanics, the person doing a job is only concerned with the specific item or items for which he is being paid. Thus, needed repairs and maintenance not contracted for which may be discovered in the course of doing requested repairs or maintenance are not done when first discovered. Minor defects are left to become major ones.

The Highway Patrol witnesses and staff engineer testified that, in their opinion, the only way for Northgate to have an adequate system of maintenance and repairs is to hire its own mechanic, and if necessary a lubrication man, to work on all of its buses. A Northgate mechanic could repair all defects when discovered, and, in the long run this would decrease the cost of maintenance and repairs. A Highway Patrol witness testified that, in his opinion, if Northgate provided proper working conditions it could hire a qualified mechanic for \$150 to \$175 per week. In addition, it would be necessary to provide some tools or equipment for the mechanic. Repairs could be made at the Northgate garage.

As indicated, the aforesaid safety violations are violations of the Vehicle Code and the California Administrative Code. The Highway Patrol Motor Carrier Safety Operations Section supervisor testified that if violations continued with the same frequency and magnitude, the Highway Patrol would seek criminal prosecutions. While the Highway Patrol is charged with the responsibility of regulating the safety of operations of passenger stage corporations, the Commission is concerned with the kind, quality and safety of Northgate's equipment under its general regulatory jurisdiction. (Public Utilities Code §§ 761,762.) While Northgate conducts its operations by using driver-owner subcontractors, it is Northgate which holds the certificate of public convenience and necessity to conduct passenger stage operations. The use of subcontractors cannot relieve Northgate of its statutory duties. The Commission looks to Northgate to fulfill its legal obligations.

The record discloses that Northgate drivers gross between \$40 to \$50 per day, and, after paying for gasoline, oil, maintenance,

repairs, insurance and costs of overhead, net between \$125 to \$150 per week. Each driver pays \$105 per month for public liability insurance, \$15 per month to pay for and amortize the garage lease and \$20 per week to Northgate which is used for maintenance of office and garage facilities, paying the general manager's salary, taxes, unemployment insurance, etc. Based on 22 working days per month, it is estimated that each driver has expenses of approximately \$240 per month for fuel, depreciation, maintenance and repairs as follows:

Average gross revenue per day	\$ 45
Number of working days per month	x22
Average gross revenue per month	<u>\$ 990</u>
Less 4 weekly contributions to Northgate @ \$20	-80
	<u>\$ 910</u>
Less monthly charge for public liability insurance	-105
	<u>\$ 805</u>
Less \$15 monthly garage charge	-15
	<u>\$ 790</u>
Average monthly net per driver = 4 x \$137.50	-550
Amount of expense of fuel, maintenance, repairs, depreciation, etc.	<u>\$ 240</u>

If Northgate were to require each driver to deposit an appropriate portion of the \$240 each month in a special fund, Northgate could hire its own mechanic. The Commission recognizes that the age and condition of Northgate's buses varies. It would be unfair to drivers with newer buses to make them pay for repairs on older buses which may need more maintenance and repairs. However, the special fund could have an account for each driver which would be applied to charges against him as they occur. Adjustments could be made periodically. If experience indicates that there is a fluctuation in the continuity of repairs, so that the mechanic's salary may not be charged to a particular account for a given period of time, a

pro-rata portion could be charged to each account. The Commission is of the opinion that Northgate should be ordered to hire a mechanic, require all of its buses to be maintained and repaired by the mechanic and require each of its drivers to contribute at least \$60 per month to a fund divided into accounts for each driver which accounts, subject to periodic adjustments, should be used to pay the salary of the mechanic.

At the hearing it was stipulated that Northgate had not filed certain revised tariff pages required by Decisions Nos. 69496 and 70164, which decisions enlarged and restated Northgate's operating authority. The Commission takes official notice that, subsequent to the hearing, Northgate filed the required tariff pages and this point will not be further discussed. No other points require discussion. The Commission makes the following findings and conclusions.

Findings of Fact

1. Northgate is a passenger stage corporation as defined in Section 226 of the Public Utilities Code.
2. A member of the Motor Carriers Safety Operations Section of the California Highway Patrol conducted vehicle safety checks on the buses used in Northgate's operations on June 1 and 2, 1965; September 1 and 2, 1965; January 18, 1966; May 23 and 24, 1966 and November 2 and 3, 1966. During these safety checks, the Highway Patrol representative found numerous safety violations (violations of specific sections of the California Vehicle Code or the California Administrative Code) with respect to the buses inspected. The following table indicates some of the violations found and the potential consequences thereof. Only one instance of each violation is shown on the table even though more instances may have occurred:

TABLE

<u>Violations</u>	<u>Consequences</u>
Hole in muffler	Exhaust gasses, including carbon monoxide, getting into passenger compartment.
Exhaust pipe loose at manifold flange.	
Bracket of muffler broken and wired up.	
Tail pipe bracket broken.	
Manifold connection base at exhaust exhaust pipe.	
Exhaust pipe broken off.	
Air brake governor set too low.	Decreases stopping ability of vehicle.
Brake out of adjustment.	
Fuel leaking at electric fuel pump.	Danger of fire.
Broken front and rear marker lights.	Hazard to other vehicles.
Dry master cylinder.	Danger to braking system.
Air leak at door motor.	
No check valve in air system between compressor and reservoir.	
Leak in oil seal at wheel.	
Brake adjustment had less than one-fifth brake pedal travel remaining in hydraulic system.	
Leaking brake diaphragm.	
Air leak at door solenoid.	
Brake lining too thin.	
Brake diaphragm ruptured.	
Air loss of 20 lbs. in 10 seconds.	

TABLE (Cont.)

<u>Violations</u>	<u>Consequences</u>
Broken brake adjustment bolt.)
Defective spring brake check valve.	
Ruptured brake chamber.	
Brake hose chafed to inner fabric.	
Rear brake cam bushing out of housing.	
Excessive water in air tank.	
Tire worn out.) Tire may blow out or go flat.
Axle stud broken.) If other studs weaken and break, vehicle would be without power. ✓
Loose bolts on engine mounting.) Puts excessive drain on drive shaft and eventually will necessitate a costly repair.
No mirror on side of bus.) Makes lane changing difficult and turns unsafe.
Defective mirror.	
Drive shaft too short at steady bearing.) Drive shaft may become separated, leaving vehicle without power and if this occurs it may whip through the floor into the passenger compartment.
Loose V-bolts on front axle.)
Loose drag link on steering arm.	
Excessive wear in steering gear.	

TABLE (Cont.)

<u>Violations</u>	<u>Consequences</u>
Chafed power steering hose.	Impairs steering, vehicle could go out of control.
Pitman arm loose at drag link.	
Excessive slack in steering gear.	
Rear spring shackle pin worn.	
Parking brake inoperative.	No means to park bus except to turn wheels against curb. If main brakes fail, vehicle will have no brakes.
Stud missing from wheel.	Wheel could become detached from Vehicle.
Stripped wheel stud.	
Loose wheel lug nuts.	
Emergency door handle missing.	Prevents escape in case of emergency.
Emergency door would not open from inside bus.	
Illegal emergency door cross chain.	
Windshield wiper missing.	Impairs vision of driver in foul weather.
Carbon tetrachloride fire extinguisher in bus.	This type of extinguisher gives off poisonous vapors and should not be used in small areas.
Light on emergency door not working.	Light indicates door unlatched. If door is unlatched, it could open on a turn and a passenger could be spilled onto pavement.
Glass broken on door.	Injury to passengers.

3. An authorized representative of the Highway Patrol, pursuant to Section 1216(h) of Title 13 of the California Administrative Code placed the number of buses on the dates hereinafter set forth "out of service" because the buses were imminently hazardous to operate and likely to cause an accident or breakdown:

6/1, 2/65	4 buses
1/18/66	3 buses
5/23, 24/66	6 buses
11/2, 3/66	4 buses

4. Northgate uses 14 buses to conduct its operations. The buses so used are run by subcontractors, driver-operators who own or lease their own vehicles. Each driver has been responsible for the maintenance and repair of his own bus.

5. Each driver realizes approximately \$45.00 per day as gross revenues. Each driver is required to contribute \$20.00 per week to Northgate to defray its operating expenses, including maintenance of garage facilities, paying the general manager's salary, taxes and unemployment insurance. Each driver pays \$105.00 per month for public liability insurance. Each driver pays \$15.00 per month to pay for and amortize the lease on the Northgate garage. Each driver pays for his own gasoline, oil, maintenance and repairs. Each driver has expenses of approximately \$240.00 per month for fuel, oil, depreciation, maintenance and repairs. Each driver keeps the difference between the aforesaid gross revenues and the aforesaid payments.

6. If Northgate had in operation an adequate system of inspection, maintenance and repairs the safety violations of the magnitude heretofore set forth would not have occurred and it would

not have been necessary for the Highway Patrol to place Northgate buses "out of service" as heretofore set forth.

7. Northgate's present practices, equipment, facilities and service are unsafe, improper, inadequate and insufficient.

8. Additional repairs, improvements and changes should be made in Northgate's equipment and facilities to promote the security of the public and to secure adequate service and facilities to the public.

9. In order to provide safe, proper, adequate and sufficient facilities and service, and in order to promote the security of the public and to secure adequate service and facilities to the public, Northgate should:

a. Institute a system of inspection, using its maintenance Inspection Sheet, whereby each of its buses is inspected at least once a month by a qualified mechanic.

b. Hire a qualified mechanic who shall maintain and repair all of the buses operating under Northgate's operating authority.

c. Set up a special fund with an account for each driver, and require each driver operating a bus under Northgate's operating authority to contribute at least \$60.00 per month to his account in the fund. The mechanic's salary should be paid by charging to each account the requisite amount chargeable for repairs and maintenance performed on and to the buses owned by the respective drivers. Periodic adjustments should be made with respect to each account. If experience indicates that there are slack periods, where the mechanic's time is not chargeable to any account, Northgate should prorate the amount necessary to pay the mechanic's salary for said periods equally to all accounts in the special fund.

10. Northgate presently leases a garage in which suitable inspection, maintenance and repairs may be made on its buses.

11. Decision No. 66746 in Application No. 45492 authorized Northgate to raise its fares and required it to (1) replace certain of its buses which were found to be unsatisfactory, unsafe or improper equipment, with new buses or good used ones, (2) employ a general manager with authority to supervise its operations, and (3) institute a system of vehicle maintenance satisfactory to the Commission and California Highway Patrol. Northgate has replaced the specified buses with new or good used ones and employed a general manager with authority to supervise its operations. Northgate has not instituted a system of vehicle maintenance satisfactory to the Commission and California Highway Patrol. A proper system of vehicle maintenance, which would be acceptable to the Commission and California Highway Patrol, is that set forth in Finding 9(a) and (b) hereof.

Conclusions of Law

1. Northgate should be ordered to institute or continue in operation, until further order of this Commission, a system of vehicle inspection using its Maintenance Inspection Sheet, whereby each of its buses is inspected at least once a month by a qualified mechanic.

2. Northgate should be ordered to hire a qualified mechanic who shall maintain and repair all the buses operating under its operating authority.

3. Northgate should be ordered to set up a special fund and require each driver to contribute at least \$60.00 per month to the fund in order to pay the salary of the mechanic Northgate is

required to hire. The special fund shall have an account for each driver, and the mechanic's salary should be paid by charging to each account the requisite amount chargeable for repairs and maintenance done to the buses owned by the respective drivers. Periodic adjustments should be made with respect to each account. If experience indicates that there are slack periods, where the mechanic's time is not chargeable to any account, Northgate shall prorate the amount necessary to pay the mechanic's salary for said periods equally to all accounts in the special fund.

O R D E R

IT IS ORDERED that:

1. Within thirty days after the effective date of this order, Northgate Transit Co., Inc. shall institute or continue in operation, until further order of this Commission, a system of vehicle inspection using its Maintenance Inspection Sheet, whereby each of its buses is inspected at least once a month by its qualified mechanic.
2. Within thirty days after the effective date of this order, Northgate Transit Co., Inc. shall hire a qualified mechanic who shall maintain and repair all the buses operating under its operating authority.
3. Within thirty days after the effective date of this order Northgate Transit Co., Inc. shall set up a special fund and require each driver to contribute at least \$60 per month to the fund in order to pay the salary of the mechanic Northgate is required to hire. The special fund shall have an account for each driver, and

charges should be made to each account for the requisite amount chargeable for repairs and maintenance to the buses owned by the respective drivers. Periodic adjustments should be made with respect to each account. If experience indicates that there are slack periods, where the mechanic's time is not chargeable to any account, Northgate shall prorate the amount necessary for the mechanic's salary for said periods equally to all accounts in the special fund.

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

Dated at San Francisco, California, this 27th day of JUNE, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.