

ORIGINAL

Decision No. 72796

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LEISURE WORLD FOUNDATION, a California non-profit corporation, for ex parte authority to sell and transfer its Certificate of Public Convenience and Necessity to County Transit Lines, Inc., a California corporation, to increase its fares, and to change its route.

Application No. 49303
(Filed April 21, 1967,
Amended May 24, 1967)

Allan M. Berland, for Leisure World Foundation,
and Walter M. Medak, for County Transit Lines,
Inc., applicants.
Philip K. Davies, for himself, protestant.
Hilton H. Nichols, for the Commission staff.

O P I N I O N

Leisure World Foundation (Foundation), a non-profit corporation, holds a certificate of public convenience and necessity as a passenger stage corporation for operations between Rossmoor Leisure World (Rossmoor) and Walnut Creek. Leisure World Foundation provides service only for persons originating at, or whose ultimate destination is Rossmoor.

County Transit Lines, Inc. (County Transit), holds a certificate of public convenience and necessity as a passenger stage corporation for operations between Walnut Creek, Concord, Pleasant Hill, Danville, Alamo and Martinez (all in Contra Costa County).

Foundation seeks to transfer its certificate to County Transit. In connection with said transfer Foundation and County Transit seek authority to raise the adult one-way fare to 30 cents from 25 cents, to cancel commute fares, and to change the termination of the route to be transferred from a point within Rossmoor to a point immediately outside thereof.

The consideration for the transfer is \$1.00, and the agreement of sale is conditioned upon receipt of authority to increase fares and to change the point of departure at Rossmoor. No equipment or property will be transferred.

Foundation seeks as alternative relief, should the authority to transfer the certificate not be granted, to raise the one-way fare to 75 cents or to have the certificate revoked.

Public hearing was held before Examiner Mallory at Walnut Creek on June 9, 1967. The matter was submitted subject to the receipt of a late-filed exhibit containing a revised route description on or before June 16, 1967. Said exhibit has been received.

Testimony was presented by representatives of Foundation and County Transit, and by protestant. The record indicates the following: Foundation uses one bus to operate 16 round trips daily except Saturday and Sunday, and 12 round trips on Saturday, between Rossmoor and downtown Walnut Creek.^{1/} Foundation also operates an intra-community bus service within Rossmoor. Said intra-community service is conducted with a different type of equipment than is used in its certificated operations, except that buses used for its certificated route are operated in combined intra and inter-community service for the first three trips in the morning. Rossmoor maintains a guard service at the entrances to the community. Streets within Rossmoor have not been publicly dedicated. The public is allowed only limited access to Rossmoor.

^{1/} Some trips also serve John Muir Hospital in Walnut Creek. No service is offered on Sundays.

If the sought transfer is authorized Foundation will continue to provide free intra-community bus service within Rossmoor and from and to the adjacent shopping center. County Transit's route would terminate at said shopping center.

The evidence shows that Foundation's certificated passenger stage service is conducted at a loss. Estimates furnished by the director of its business department indicate that said operations result in losses averaging \$1,700 per month. The witness indicated that, under Foundation's present level of passengers, a fare of 75 cents would be required to break-even. The witness stated that Foundation operates the bus line as a convenience to its residents; that only a small percentage of the residents avail themselves of the service; and that the burden of making up the losses falls upon all residents, whether or not they use the bus line.

The president of County Transit testified concerning the following: County began operations in February, 1967. County Transit was authorized by Decision No. 72023, dated February 15, 1967, in Application No. 49081, to issue \$15,000 of stock, which is presently outstanding. The witness stated that in the period February through May, 1967, County Transit incurred a net loss of \$14,000. County Transit's president has guaranteed to advance to the company amounts up to \$25,000, should losses continue.

County Transit has 3 new buses and 3 used buses. All are air-conditioned. It has adequate equipment to perform transportation over an additional route.

County Transit's president testified that if the certificate was transferred, County Transit could perform the operation using the buses and drivers now employed on an adjacent

route. The witness estimated that the additional cost of performing service between Leisure World Shopping Center and downtown Walnut Creek would amount to approximately \$300 per month. At the current level of patronage, revenues are approximately \$600 per month. The witness stated that operation of the Rossmoor line should be profitable and should help to reduce County Transit's losses on its other routes. Also, County Transit would remove the present restriction with respect to Rossmoor passengers and, hopefully, would thus obtain additional patronage between Walnut Creek and points intermediate to Rossmoor.

Protestant Davies, a resident of Rossmoor, testified as to his use of the bus service and his observations of the manner in which the service is presently conducted. Protestant also furnished an alternative plan of operations which would call for Foundation to supply bus service on Sundays, when no service will be provided by County Transit; for Foundation to provide standby service in the event a County Transit bus should be late or should not provide service on any schedule; and for Foundation to reacquire the certificate should County Transit discontinue operations for any reason. Protestant's recommendations were not acceptable to either applicant.

We find as follows:

1. Leisure World Foundation, a non-profit corporation, provides passenger bus service between Rossmoor and Walnut Creek and Rossmoor and John Muir Hospital, limited to persons riding to or from Rossmoor, pursuant to the certificate granted in Decision No. 70167, dated January 4, 1966, in Application No. 48039.
2. Said bus operations by Leisure World Foundation have been conducted at a loss since their inception.

3. County Transit Lines, Inc., operates a passenger bus service in Contra Costa County within and between the following communities: Walnut Creek, Concord, Pleasant Hill, Martinez, Danville and Alamo, pursuant to the certificate granted in Decision No. 72023, dated February 15, 1967, in Application No. 49081.

4. Said operations of County Transit have been conducted at a loss since their inception.

5. The adult fares maintained by Foundation are the following:

One way - 25 cents

Commuter Bus Tickets

4 one-way trips \$1.00

11 one-way trips \$2.50

22 one-way trips \$5.00

6. The current adult one-way fare maintained by County Transit over each of its present routes is 30 cents, with a transfer fare of 5 cents.

7. An increase in fares for the Rossmoor line, as follows, is justified:

Adult fares

One way	-	30 cents
Round trip	-	60 cents
Transfer fare	-	5 cents

Children's fares

As set forth in Exhibit C of application.

8. County Transit can integrate the Rossmoor route into its current operations by employing buses and drivers used on adjacent routes. Such method of operation would increase the patronage and revenues of County Transit without a corresponding increase in operating expenses, thus reducing current operating losses.

9. County Transit Lines, Inc., possesses the equipment and personnel necessary to operate bus service between Rossmoor and Walnut Creek.

10. The service to be offered by County Transit is similar to the current service performed by Foundation, except that the point of departure from Rossmoor would be from the adjacent shopping center rather than within Rossmoor. Foundation will continue to provide free bus service within Rossmoor, which service will connect with the proposed service of County Transit at Leisure World Shopping Center.

11. The sought transfer of the passenger stage corporation certificate from Foundation to County Transit is not adverse to the public interest. The sought change in routing to establish a termination point outside Rossmoor is necessary, reasonable and in the public interest.

12. The operational plan presented by protestant is not reasonable or justified.

The Commission concludes that the application should be granted to the extent, and subject to the conditions, set forth in the order which follows. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Leisure World Foundation and the issuance of a certificate in revised appendix form to County Transit Lines, Inc.

County Transit Lines, Inc., 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. On or before November 1, 1967, Leisure World Foundation may sell and transfer, and County Transit Lines, Inc., may purchase and acquire, the operative right referred to in the application.
2. Within thirty days after the consummation of the transfer authorized, County Transit Lines, Inc., 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 such transfer.
3. County Transit Lines, Inc., is authorized to establish a one-way adult fare of 30 cents, a round-trip adult fare of 60 cents, and children's fares as set forth in Exhibit C of Application No. 49303, in connection with passenger service between Leisure World Shopping Center, on the one hand, and Walnut Creek, on the other hand, (Route No. 5), and an adult transfer of 5 cents applicable between points on said route, on the one hand, and points on other routes served by County Transit Lines, Inc., on the other hand.
4. County Transit Lines, Inc., shall file tariffs and time tables to become effective concurrently with the consummation of the transfer herein authorized. Concurrently with the effective date of said tariffs and timetables, the tariffs and timetables of Leisure World Foundation are cancelled. 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. The tariff and timetable filings made pursuant to this order shall comply in all respects with regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.

5. In the event that the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to County Transit Lines, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in the Public Utilities Code, between the points and over the routes particularly set forth in Route No. 5 as shown on First Revised Page 4 (canceling Original Page 4) of Appendix A to Decision No. 72023, in Application No. 49081, which revised page is attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 hereof shall supersede the certificate of public convenience and necessity issued to Leisure World Foundation, a corporation, granted by Decision No. 70167, in Application No. 48039, which certificate is revoked effective concurrently with the effective date of the tariff filings required by ordering paragraph 4 hereof.

7. In providing service pursuant to the certificate herein granted, County Transit Lines, Inc., shall comply with and observe the following service regulations:

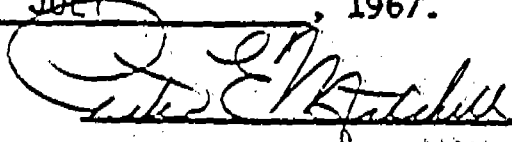
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply 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-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) Applicant shall maintain its 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 its 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 date hereof.

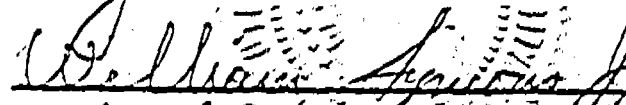
Dated at San Francisco, California, this 25th day of JULY, 1967.



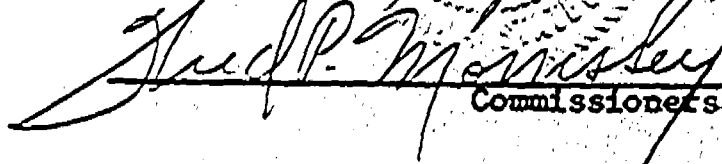
President



Commissioner



Commissioner



Commissioner

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

BEM

APPENDIX A
(Decision No. 72023)

COUNTY TRANSIT LINES, INC.

First Revised Page 4
Cancels
Original Page 4

Route No. 3 Danville - Walnut Creek - Martinez

Commencing at the intersection of Diablo Road and Danville Boulevard in 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, Berreliessa 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.

Route No. 5 - Rossmoor-Walnut Creek

Commencing at Broadway Plaza and South Main Street in Walnut Creek; thence via South Main Street, Mt. Diablo Boulevard, South Broadway; thence west on Broadway Plaza to Olympic Boulevard to Tice Valley Boulevard to Rossmoor Parkway; thence via Rossmoor Parkway and Leisure World Shopping Center to Rolling Hills Drive and return to Tice Valley Boulevard to Olympic Boulevard to Broadway Plaza to South Main Street.

Issued by California Public Utilities Commission.

Decision No. 72796, Application No. 49303.