

**ORIGINAL**

Decision No. 73270

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Desert Hot Springs, California, )  
Chamber of Commerce, )

Complainant, )

vs. )

John C. Hastie, dba, Twentynine )  
Palms Stages, )

Defendant. )

Case No. 8613  
Filed March 27, 1967

John R. Simon, for defendant.  
Dellon E. Coker, Regulatory Law Division,  
Office of the Judge Advocate General,  
Department of the Army, Washington,  
D. C., for Department of Defense,  
intervener.  
Louis Adelman, for Chamber of Commerce  
and in his own behalf; Mrs. Ella F.  
Dolan, for North Palm Springs; Chester E.  
Ellis, for Twentynine Palms Chamber of  
Commerce; J. M. McFadden, for Chamber of  
Commerce and City of Desert Hot Springs;  
George Mueller, Councilman, for City  
Council of Desert Hot Springs; and  
William D. Williams, for City of Desert  
Hot Springs, interested parties.  
Fred G. Ballenger, for the Commission staff.

O P I N I O N

The complaint alleges that Desert Hot Springs and Twentynine Palms are in great need of bus transportation to Palm Springs, California, and that defendant, Twentynine Palms Stages is not giving satisfactory service to the Desert communities in the area. Complainant requests the Commission to order defendant

to operate modern parlor air-conditioned coaches; abandon the route from Twentynine Palms Highway and Indian Avenue to Banning; and to establish a new route from Twentynine Palms Highway to serve Desert Hot Springs, Palm Springs, West Palm Springs, Southern Pacific Station, and the Municipal Airport.

The answer of defendant was filed on May 11, 1967. Defendant replied that he has been furnishing satisfactory transportation from Twentynine Palms to Banning since 1938, and from the Marine Corps Base six miles north of Twentynine Palms since 1952. Defendant alleges that the passenger operation has not been profitable but that he has made expenses by reason of his express service. Defendant alleges that all of his stops from Twentynine Palms to Banning are necessary and cannot be abandoned, and that he cannot extend his service from Twentynine Palms to Desert Hot Springs and Palm Springs except at a loss. Defendant alleges that the Commission cannot order him to provide this service unless he applies to have his certificated area extended. Defendant alleges that he made an offer to complainant to extend his service from Desert Hot Springs to Banning on a 90-day trial basis but that this offer was rejected.

Public hearing was held in Desert Hot Springs, California, on August 29, 1967, before Examiner DeWolf. Both parties and the intervener, U. S. Marine Corps, presented evidence and the matter was submitted.

Twentynine Palms Stages has been operating for 29 years on the State highway from Twentynine Palms to U. S. Highway 60 and Banning with intermediate stops at Yucca Valley, Morongo Valley and other points. Schedules have been set up which are satisfactory to the U. S. Marine Corps Base and are arranged to connect with

Greyhound bus schedules at Banning, California. The stop in Banning is at the Greyhound terminal where adequate waiting rooms for passengers are available. The complainant rejects the offer of defendant to extend the service to Desert Hot Springs and, thence, to Banning on a 90-day trial basis. The complainant and intervener both desire service to Palm Springs in order to make connections with the Municipal Airport, and other bus schedules.

Complainant sought to reconsider Application No. 48761 filed September 6, 1966, in which Decision No. 72078 was rendered and is now final.

The entire thrust of the complaint is directed toward compelling the defendant to change his terminal from Banning, California to Palm Springs, California, and to operate through Desert Hot Springs, or to furnish additional services, i. e., between Twentynine Palms, Desert Hot Springs and Palm Springs with new buses and equipment.

Three witnesses testified, one each for the complainant, defendant, and intervener. A major in the U. S. Marine Corps, the traffic management officer for the Marine Corps Base, testified and introduced in evidence Exhibits 1 and 2. Exhibit 1 is the prepared direct testimony of the witness for intervener and Exhibit 2 is a map of the Marine Corps Reservation and surrounding territory.

Approximately 70 persons present who were interested in getting additional bus service from Desert Hot Springs to Palm Springs selected a representative who testified in their behalf. A representative of the Twentynine Palms Chamber of Commerce appeared and in argument expressed desire for unimpaired continuance of service between Twentynine Palms and Banning.

Defendant is authorized to operate between Banning and Twentynine Palms Base over specified highways. He utilizes a 1956 Ford 32-passenger bus and a 1956 GM 24-passenger bus which do not contain separate all-weather baggage compartments and seats adjustable to comfortable riding positions. He also operates a 1960 GM 15-passenger air-conditioned limousine. His present schedules from Twentynine Palms Base to Banning are as follows:

<u>Depart</u>	<u>Arrive</u>
0845	1105
1540	1745

In the reverse direction, the schedules are as follows:

<u>Depart</u>	<u>Arrive</u>
1345	1515
2315	0125 next day.

The traffic management officer testified concerning the growth of the Marine Corps station five miles north of Twentynine Palms, its transportation needs, and defendant's service. His testimony as to defendant's service is summarized below. The schedules are supplemented on paydays, which are the fifteenth and thirtieth day of each month. For the most part, travel to Banning is performed only to make connections with other transportation lines. The passengers are required to wait there for the connections. Greyhound Lines transports passengers west and north to and from Los Angeles and other points and south to and from San Diego through Banning. This service at Banning is not desirable because the schedules stopping there make numerous intermediate stops. The distance between the Base and Banning is about 64 miles and the distance to Los Angeles from the Base is about 148 miles. In total time the trip between the Base and Los Angeles takes almost a full day. Any travel to and from points south, including Palm Springs,

entails transportation to Banning and a backhaul between Banning and Twentynine Palms Junction for a total of about 16 excess miles.

Personnel assigned to the Base who use the service are inconvenienced by the delays and change in lines. There are many who would use the service if it were improved but find it more convenient presently to use their automobiles or to ride with friends.

No other witnesses testified as to the service rendered by defendant on his established route between Twentynine Palms and Banning, and no witnesses appeared who use the service now being operated.

The defendant testified that the service is operated daily and that he has an air-conditioned bus in operation daily on the afternoon trip and that the large majority of his passengers are townspeople rather than servicemen. Defendant testified that his buses are not filled to capacity and that he has many vacant seats in both directions.

Defendant testified that there are many other modes of transportation in the area, including government cars, buses and at least 50 rental cars at Twentynine Palms, which are responsible for his unused capacity. Defendant also testified that he handles express between Twentynine Palms and Banning providing regular income, that he does not have funds to extend the service into other areas, and that his offer to extend his route into Desert Hot Springs on a trial basis was not accepted by the complainant.

Complainant and residents of Desert Hot Springs and the Marine Base are seeking additional bus transportation to Palm Springs and the Municipal Airport. The defendant has dedicated his equipment and property to public use for benefit of the passengers

and communities along his existing route from Twentynine Palms to Banning, and these have a vested interest in the continued operation of this service.

Here the Commission could compel defendant to provide service beyond his certificated territory if, for example, by his operations he had dedicated his service to the public in the area in question. Even then, the record must establish not only that public convenience and necessity require the service in question, but that defendant has the equipment, assets and ability to conduct the additional service and that the institution thereof will not impair his ability to continue his existing operations. The evidence herein shows not only that defendant has dedicated no service to the area in question, but that extensions as requested would impair defendant's existing service, place additional burdens on his property already dedicated to public use and impose financial obligations which it would be difficult if not impossible for him to meet.

We find as follows:

1. Twentynine Palms Stages provides two daily schedules in each direction between Twentynine Palms and Banning.
2. The stage schedules are arranged to connect with Greyhound buses at Banning and to meet the requirements of the servicemen at the U. S. Marine Corps Base at Twentynine Palms.
3. The afternoon schedule of Twentynine Palms Stages is being operated daily with air-conditioning in the bus.
4. The present service by Twentynine Palms Stages is being operated satisfactorily.
5. The Chamber of Commerce of Desert Hot Springs filed a complaint herein to require service to be extended off Highway 62 to serve the incorporated City of Desert Hot Springs and the

incorporated City of Palm Springs and the U. S. Marine Corps Base as intervener joined in the request for the extension of service.

6. The Chamber of Commerce of the City of Desert Hot Springs refused the offer of the Twentynine Palms Stages for an off-route extension of its existing route for a 90-day trial period to Desert Hot Springs.

7. The complainant and intervener are interested in a bus service from Twentynine Palms to Desert Hot Springs and to Palm Springs and do not desire bus service over defendant's present routes to Banning.

8. Defendant has dedicated his property to public use only to the extent of rendering passenger stage service between Twentynine Palms and Banning.

9. Present passenger volume at present rates is insufficient to support a profitable operation, and absent revenues from express service the operation would be conducted at a loss.

10. Diversion of any of defendant's property presently dedicated to the service described in Finding No. 1 to the service described in Finding No. 5 would impair his ability to serve as described in Finding No. 1.

11. Defendant does not have the financial ability to provide the additional service described in Finding No. 5, and defendant should not be required to extend his present service.

We conclude, therefore, that the complaint should be denied.

O R D E R

IT IS ORDERED that the relief sought by Case No. 8613 ✓  
is denied.

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

Dated at San Francisco, California, this 27<sup>th</sup>  
day of OCTOBER, 1967.

*Edward E. Mitchell*  
President

*Stallman & Burns*

*Augood*

*Fred P. Ramsey*  
Commissioners

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