

**ORIGINAL**

Decision No. 73687

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of PERSHING L. REINER, doing business as LAGUNA TRANSIT, for a certificate of public convenience and necessity as a passenger stage corporation authorizing the establishment of an additional service between Laguna Beach, Laguna Hills and Orange County Airport, pursuant to Sections 1031-1036 of the California Public Utilities Code.

Application No. 49290  
(Filed April 14, 1967)

Russell & Schureman, by Carl H. Fritze, for applicant.  
George Shibata, for Laguna Limousine, protestant.  
Elmer Brown, for Chamber of Commerce and Laguna Travel Service, interested party.  
William R. Kendall, for the Commission staff.

O P I N I O N

On August 29, 1967, the Commission issued Decision No. 72982 (an Interim Opinion) in the above application which found certain deficiencies in the service of protestant Donald B. Ebert, doing business as Laguna Limousine Service, and deferred action on the application of Pershing L. Reiner doing business as Laguna Transit until Ebert had been given an opportunity to correct the service deficiencies, and to make changes which would entitle him to the preference defined in Section 1032 of the Public Utilities Code.

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The decision ordered further hearing for December 12, 1967, to enable the Commission thereafter to determine whether or not improvements in Ebert's service were satisfactory.

Further hearing was held on December 12, 1967, at Laguna Beach before Examiner DeWolf and the matter was submitted.

Protestant Ebert testified as to his operations for September, October, and November, and as to his plans for future operations. His Exhibits Nos. 1FH, 2FH, and 3FH show the number of passengers and fares handled during the months of September, October, and November. Protestant's Exhibit No. 4FH is an estimate of cost of operation of a 33-passenger bus as compared with the 9-passenger van now used showing claimed losses which would be incurred by operation of the large bus. Protestant's Exhibit No. 5FH is Ebert's printed timetable.

The testimony of protestant is summarized as follows. He purchased a 33-passenger Flexible bus registered as 1948 model, has maintained it ready to operate, and has used it on trips when the 9-passenger van was out of service, approximately on six days, two days each month since September 1, 1967, and on some charter trips. The bus is marked with a charter sign and protestant's trade name of Laguna Limousine Service but contains no destination signs. The 9-passenger van broke down and protestant operated a rented station wagon for four days. The exhibits show that the 9-passenger van was driven on several occasions with nine or more passengers. The gross revenue was \$872 for September, \$982 for

October, and \$761 for November. Protestant claims that Exhibit No. 4FH shows a saving of \$775 by not using the bus and contends there is not enough patronage in the area to warrant its use. Protestant testified that he was not offered a contract by the Laguna Beach Chamber of Commerce to subsidize patronage, and that if this had been available he would have operated the bus. Protestant testified that he proposes the purchase of an air-conditioned bus for next summer which he will use if he gets a contract subsidy from the Laguna Beach Chamber of Commerce, other sources or increased patronage justifies its use. Protestant stops at a travel agency in Laguna Beach and distributes printed timetables as advertising. He has a telephone listing in his own name but none in the advertised name of the business. The van being used has no standing room for any passengers but has baggage space. Ebert testified that the validation subsidy program of the Laguna Beach Chamber of Commerce ceased on August 12, 1967, because funds ran out. Protestant contends that public convenience and necessity does not require a large bus from Laguna Hills to Laguna Beach but he indicates he is willing to run a larger bus provided the traffic warrants or he has a sufficient subsidy. Protestant did not present financial data to show he has the funds to operate his proposed service or a service equivalent to the service proposed by applicant.

Protestant further testified that when he purchased the 33-passenger bus he notified the Chamber of Commerce that he had

the bus and a news article appeared in a local paper relating this fact.

A representative of the Laguna Beach Chamber of Commerce appeared as an interested party and testified that the Chamber desires additional bus service to the area but could not make any statement as to what, if any, financial support would be given and did not furnish any other specific evidence.

Mrs. Reiner testified for applicant and renewed the offer to institute improved bus service between Laguna Hills and Laguna Beach on a regular basis with the buses described in the evidence, and offered to maintain the service with additional intermediate stops whether or not any assistance is provided by the merchants of Laguna Beach.

Two other witnesses testified to the need for improved service from Laguna Hills to Laguna Beach.

Applicant Reiner made an offer to institute service between Orange County Airport, Laguna Hills and Laguna Beach with a certain restriction for the benefit of protestant but did not withdraw any portion of the application and still seeks issuance of the authority requested in its entirety.

Findings

Upon consideration of the evidence the Commission finds that:

1. Protestant Donald B. Ebert has not provided service between Laguna Hills and Laguna Beach, California, to the satisfaction of the Commission.

2. Protestant Donald B. Ebert has not improved service by operating larger buses on a continuous schedule between Laguna Hills and Laguna Beach, of a sufficient size to handle and attract public patronage in the area which is rapidly growing in population.

3. Protestant Ebert has not complied with Decision No. 72982, dated August 29, 1967 which allowed him ninety days within which to institute and promote said service.

4. Public convenience and necessity require the type of service proposed by applicant Reiner consisting of regular service between Laguna Hills and Laguna Beach with use of a bus of not less than 20-passenger capacity.

5. Protestant Ebert objects to the regular use of a large bus between Laguna Hills and Laguna Beach and desires only to operate a limited limousine service which he has been operating in the past and with only occasional use of a large bus or other smaller equipment.

6. Public convenience and necessity require the institution of improved regular service between Laguna Hills and Laguna Beach and intermediate points and the success of said operation requires that at least 20-passenger buses be used regularly and without restriction.

The Commission concludes that protestant Ebert has not improved his bus service and does not wish to institute and promote, regular improved bus service of the type proposed by applicant between Laguna Beach and Laguna Hills and will not provide such service to the satisfaction of the Commission.

The findings of fact in Decision No. 72982, dated August 29, 1967 are confirmed and the application of Pershing L. Reiner will be granted. The order which follows will provide for the revocation of the certificate presently held by Pershing L. Reiner and the issuance to him of a new certificate in appendix form restating said operative rights.

Pershing L. Reiner, doing business as Laguna Transit, 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. A certificate of public convenience and necessity is granted to Pershing L. Reiner, doing business as Laguna Transit, authorizing him 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 attached hereto and made a part hereof.

2. The certificate of public convenience and necessity granted in paragraph 1 of this order shall supersede all existing certificates of public convenience and necessity authorizing the transportation of persons, as a passenger stage corporation heretofore granted to or acquired by him and presently possessed by him, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3b hereof.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (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.
- (b) Within one hundred twenty days after the effective date hereof, applicant 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) 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 6<sup>th</sup> day of FEBRUARY, 1968.

President

*William A. Brennan*

*Augustus*

*William J. Sullivan*

*Paul R. Monahan*

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.



CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

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Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges, applicable thereto.

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All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made as revised pages or added original pages.

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Issued under authority of Decision No. 73687 dated February 6, 1968, of the Public Utilities Commission of the State of California, in Application No. 49290.

SECTION I      GENERAL AUTHORIZATIONS, RESTRICTIONS,  
LIMITATIONS AND SPECIFICATIONS

The certificate hereinafter noted supersedes all operating authority heretofore granted to Pershing L. Reiner, doing business as Laguna Transit, or its predecessors.

Laguna Transit by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers between points in the City of Laguna Beach on the one hand and Three Arch Bay, on the other hand, and between points in the City of Laguna Beach, on the one hand, and Laguna Hills and Orange County Airport, on the other hand, and intermediate points over and along the routes hereinafter described, subject to the following conditions:

- (a) 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.
- (b) Passengers transported on the Laguna Beach-Laguna Hills-Orange County Airport service, shall be picked up and discharged only at points and places to be named in applicant's tariff.

Issued by California Public Utilities Commission.

Decision No. 73687, Application No. 49290.

## SECTION 2      ROUTE DESCRIPTIONS

South Laguna:

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Forest Avenue, Gleneyre Street, Diamond Street, Coast Boulevard, to Crown Valley Parkway (Three Arch Bay). Return via Coast Boulevard, Ocean Avenue to terminal.

Also: From the intersection of Coast Boulevard and Cress Street, thence along Cress Street, Temple Terrace, Thalia Street to Coast Boulevard.

North Laguna:

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Broadway, Cliff Drive, Rosa Bonheur Drive, Cypress Drive, Monterey Drive, Hawthorne Road, High Drive, Coast Boulevard to Ledroit Street. Return via Coast Boulevard, Ocean Avenue to terminal.

Laguna Beach-Laguna Hills-Orange County Airport

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Broadway, Laguna Canyon Road, El Toro Road, Paseo de Valencia, (Laguna Hills), Via Estrada, Avenida de la Luise, (Leisure World Official bus stop), Laguna Hills, Calle de la Platte, Paseo de Valencia, Valencia Avenue, Culver Drive, Lane Road, Jamboree Road, Campus Drive, MacArthur Boulevard to the Orange County Airport. Returning via the reverse of the above route.

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