

Decision No. 76043

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charter Sedan Service, a corporation,)
Complainant)

vs.

Richard A. Allen, Donald A. Moore,
Fred H. Van Tassell and Robert E.
Loveday, doing business as Mercury
Sedan Service,

Defendant.

Case No. 8864
(Filed November 14, 1968)

C. R. Jernberg, for Charter Sedan Service,
complainant.
Richard Allen, for Richard A. Allen, Donald A.
Moore, Fred H. Van Tassell and Robert E.
Loveday, doing business as Mercury Sedan
Service, defendant.
Elmer J. Sjostrom, Counsel, and Robert W. Hannam,
for the Commission staff.

O P I N I O N

On November 14, 1968 complainant Charter Sedan Service filed its complaint alleging that defendants were operating a passenger stage corporation service between points and places in Santa Clara and San Mateo Counties and the San Francisco International Airport; Oakland International Airport and San Jose Municipal Airport without possession of an effective and valid certificate of public convenience and necessity authorizing the transportation of passengers on an individual fare basis.

A public hearing on the complaint was held on June 12, 1969 at San Francisco before Examiner O'Leary at which time the matter was submitted.

By Decision No. 73678 dated January 30, 1968 in Application No. 49561 defendants were granted a certificate of public convenience

and necessity to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code generally between various points in Alameda, San Mateo and Santa Clara Counties, on the one hand, and San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport, on the other hand. Said certificate was granted upon certain conditions, one of which was set forth in ordering paragraph 6(b) as follows:

"That said applicants obtain from the appropriate local governmental agencies permission for parking their limousines and other passenger automobiles to load and discharge passengers at San Jose Municipal Airport, San Francisco International Airport, and Oakland International Airport."

The Secretary of complainant testified that he had made numerous inquiries to determine whether or not defendants had complied with the condition set forth in ordering paragraph 6(b) and could find no evidence that defendants had complied with nor had notified the Commission of compliance with said condition. The representative of defendants presented no evidence but stated that defendants have not conducted any operations for several months. A member of the Commission staff assisted in the development of the record.

The Commission takes official notice of the fact that no insurance is on file for the defendants' operation and that by letter dated July 8, 1969 defendants requested that their certificate be placed in voluntary suspension.

Based on the evidence adduced the Commission finds:

1. Defendants were granted a certificate of public convenience and necessity to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code as set forth in Decision No. 73678 dated January 30, 1968 in Application No. 49561.

2. Ordering paragraph 6(b) of Decision No. 73678 required that applicant obtain permission from appropriate local governmental agencies for parking vehicles at San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport.

3. Decision No. 73678 did not specify whether the permission was to be written or oral.

4. Decision No. 73678 did not require that defendants notify the Commission that it had obtained such permission.

5. Complainant was not able to determine whether or not defendants complied with ordering paragraph 6(b) of Decision No. 73678.

6. Complainant has not shown that defendants did not comply with ordering paragraph 6(b) of Decision No. 73678.

7. Complainant has not sustained its burden of proof.

Based upon the above findings the Commission concludes that the complaint should be dismissed.

O R D E R

IT IS ORDERED that the complaint in Case No. 8864 is dismissed.

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

Dated at San Francisco, California, this 19th day of AUGUST, 1969.

William J. ...
 President

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 Commissioners