

ORIGINALDecision No. 76047

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charter Sedan Service
a California corporation

Complainant,

vs.

Robert Nyhan d/b/a
Bob's V. I. P's Associated
Limousine Service,

Defendant.

Case No. 8863
(Filed November 14, 1968)C. R. Jernberg, Jr., for complainant.Jerome A. Smith, for defendant.Elmer Sjostrom, Counsel, for the Com-
mission staff.O P I N I O N

On November 14, 1968 complainant Charter Sedan Service filed its complaint alleging that defendant was operating as a passenger stage corporation between points and places in Santa Clara, Santa Cruz and San Mateo Counties and the San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport without a certificate of public convenience and necessity authorizing such operations.

A public hearing on the complaint was held on April 22, 1969 at San Francisco before Examiner O'Leary. The matter was submitted subject to receipt of memorandums of points and authorities which have been filed. The matter is now ready for decision.

Complainant presented evidence through one witness who testified that he observed defendant collecting fares from passengers at airports on an individual basis.

Defendant testified that he operates two types of service, namely, exclusive charter service and nonexclusive charter service. Defendant explained that the exclusive charter service entails one pickup of one or more persons for which a flat charge is assessed regardless of the number of persons picked up. The non-exclusive charter service entails two or more pickups at different locations and a fare of \$8.00 per pickup is charged. It was developed that the per pickup charge varies with the number of persons picked up. The evidence is clear that the charge is \$8.00 per person rather than per pickup. A copy of defendant's rate schedule was received in evidence as Exhibit 1.

Counsel for defendant argues that defendant has not operated between fixed termini or over a regular route and has not charged on an individual fare basis. There is no question that defendant has not operated over a regular route. We now turn to the question of whether or not defendant has operated between fixed termini. The evidence is clear that defendant operates between points in Santa Clara, Santa Cruz and San Mateo Counties, on the one hand, and San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport, on the other hand. Counsel for defendant argues that an entire county cannot be considered as a terminus. In Fleetlines, Inc., 52 Cal.P.U.C. 298 at 302, it is stated: 'We find the word 'termini' in the statute implies a broader meaning than a truck terminal as such. A terminal may be a city, town or locality. It may be the place of business of a shipper or consignee. Indeed, it may be any location where a shipment is picked up or delivered. Any hauling must be from one point to another, so the test of 'fixed termini' is not

whether they are fixed points geographically, but whether they are 'fixed termini' so far as the carrier is concerned."

Exhibit 1 lists three areas from which defendant performs service, namely, (1) San Jose-Los Altos Hills, Los Gatos, Campbell, Saratoga, Santa Clara, Cupertino and Sunnyvale; (2) Santa Cruz Area; and (3) Los Altos City, Mountain View, Palo Alto Area. It is clear that the above are fixed termini so far as defendant is concerned. With respect to counsel's argument that defendant has not charged on an individual fare basis, the evidence is clear that with respect to some of the charter service defendant has charged on an individual fare basis.

Based on the evidence adduced the Commission finds:

1. Defendant operates a charter service between San Mateo, Santa Clara and Santa Cruz Counties, on the one hand, and San Francisco International Airport, Oakland International Airport and San Jose Municipal Airport, on the other hand.

2. Charges for some of such charter service are assessed on an individual fare basis.

3. Defendant does not hold any operating authority from this Commission to operate as a passenger stage corporation.

Based upon the above findings the Commission concludes that defendant has operated as a passenger stage corporation in transporting persons on an individual fare basis in certain of its charter operations and should be ordered to cease and desist from such operations.

