

ORIGINAL

Decision No. 76681

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Franklin F. Steele, doing business as Steele Transportation, for a certificate of public convenience and necessity to operate a passenger stage service between points in and about Napa and Mare Island.

Application No. 51160
(Filed June 12, 1969)

In the matter of the application of ALFONZO LOPEZ, JR., for a certificate of public convenience and necessity to operate passenger stage service between the cities of Vacaville and Fairfield, on the one hand, and the Mare Island Naval Shipyard, on the other hand.

Application No. 51175
(Filed June 18, 1969)

In the matter of the application of ELWOOD M. BOBO for a certificate of public convenience and necessity to operate passenger stage service between the City of San Rafael, on the one hand, and the Mare Island Naval Shipyard, on the other hand.

Application No. 51178
(Filed June 18, 1969)

Gladstone A. Gillette, for applicants Alfonso Lopez, Jr.
and Elwood M. Bobo.

Franklin F. Steele, as an applicant.

Howard Pettersen, for Pettersen Bus Lines, protestant.

Richard E. Twining, for Adams Charter Service, protestant.

Kenneth Henricksen, as an interested party.

O P I N I O N

These applications were consolidated and a hearing was held in Vallejo on August 20, 1969, before Examiner Fraser. They were submitted on the date of hearing subject to certain conditions which have been satisfied.

Applicant Steele testified as follows: He has provided transportation between Napa and Mare Island since 1954; he made the transportation available as a Mare Island employee, taking fellow employees in a station wagon and then a bus as more workers wanted to ride; Pettersen started about the same time and for a while Pettersen served the east side of Napa, Adams the center and Steele the west side; Adams and Pettersen received certification after applying to the Commission; Steele himself did not apply because he did not think it was necessary; he is a full-time employee of Mare Island Naval Shipyard rather than a passenger bus operator; he now operates with a 1945 29-passenger Flexible and a 1946 37-passenger Gillig, on a five-day-a-week basis; he does not use the buses on weekends and does not use them for charters; each bus has a different route, leaving Napa at 6:00 a.m. and arriving at the Navy yard at 7:00 a.m.; he charges and collects his fares on a weekly basis, but does not sell tickets since all passengers are known to the driver and work at Mare Island; he has his own garage and does the maintenance work on his vehicles; his insurance coverage is within Commission requirements and his passengers have never complained; he has only two buses operating and he will not seek to expand his area or to carry more passengers.

Applicant Lopez testified as follows: he purchased his Vacaville route from Floyd Russell in 1967 and his Fairfield route from Bob Craven in November 1968; he uses two buses out of Fairfield and one bus on the Vacaville route; a fourth bus is used as a spare; 37 passengers are hauled from Vacaville and 25 from Fairfield; all passengers are employees of Mare Island Naval Shipyard, as is applicant Lopez; his buses operate at half to three-quarters full and he has obtained the minimum insurance coverage required by the

Commission; he does not issue tickets; his drivers simply collect from each passenger on a weekly basis and bring the money to Lopez; he performs basic maintenance on the buses and major work is handled by a truck service in Suisun, a nearby town; he is proposing a charge of \$12 from Vacaville and \$9 from Fairfield; it will be paid in advance and will cover two weeks' transportation. Applicant Lopez emphasized that he is experienced since he has been providing the service for a year or more; he further noted that the Navy yard encourages bus operators as a means of controlling the traffic problem and relieving congested parking areas.

Applicant Bobo testified he has driven a bus from his home in San Rafael to the Navy yard for 28 years; he and his fellow passengers are employed at the Navy yard Monday through Friday; he transports only fellow employees and does not use his buses on weekends; he transports 20 passengers at \$6 a week and is losing money; he hopes to raise the rates to \$8 a week or \$2 a day after the present proceeding; he is operating only one bus, a 1941 G.M.C. and usually drives it himself, although he has other drivers on call.

Neither protestant provides any service between San Rafael and Mare Island Navy Yard. Pettersen testified his protest was based on his understanding that Bobo planned an immediate retirement and sale of his bus route and equipment. Pettersen was contacted as a possible purchaser, but is not interested in acquiring passengers by this method. Pettersen advised that the San Rafael area will only support one bus operator; if Bobo retires, protestant Pettersen feels he should have the first opportunity to apply for authority to serve the area vacated by Bobo. He testified he is protesting only if Bobo attempts to sell his operating authority as soon as he acquires it.

Neither protestant serves Vacaville or Fairfield. Both agreed that the area will support only one bus operator.

Pettersen provides five buses out of Napa every work day to transport employees to the Navy yard; Adams Charter Service provides three daily buses. Protestants advised their buses operate half empty out of Napa and have sufficient capacity for a lot more customers.

The basic issue to be decided is whether several experienced operators should be authorized to continue a necessary public service they have provided for many years, without authority. Protestants operate exclusively in the Napa area, which they have shared with applicant Steele for many years. Applicants' ability to provide the service is evident and granting the Steele application will not affect either protestants' or Steele's operations.

Findings

1. All applicants are employed at the Mare Island Navy Yard.
2. Applicants provide a bus service for co-workers from Napa, Vallejo, Fairfield, Vacaville and San Rafael.
3. The service has been provided by applicants and their predecessors for many years without authority from or regulation by this Commission.
4. Bus transportation of employees is encouraged by the Navy yard. It relieves the parking problem when employees come by bus and reduces congestion of vehicles at peak periods.
5. Applicant Steele and each of the protestants have transported Navy yard workers from Napa without conflict for 15 years.
6. Under these circumstances it is reasonable to grant the operating authority requested in the Steele application.

7. Protestants do not operate in Fairfield, Vacaville or San Rafael and do not plan to extend service to these areas. Therefore the Lopez and Bobo applications should be granted.

8. All of the applicants have for many years provided adequate service in the areas they seek herein to serve.

9. The granting of the requested authority will have no effect on passenger stage corporations already operating in the area.

10. Public convenience and necessity require that the applications be granted as provided in the ordering paragraphs herein.

11. Applicants have the experience, equipment, personnel and financial resources to institute and maintain the proposed service.

Conclusion

We conclude that the applications should be granted.

Applicants are 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. Certificates of public convenience and necessity are granted to (a) Franklin F. Steele, (b) to Alfonzo Lopez, Jr., and (c) to Elwood M. Bobo, authorizing them to operate as passenger

stage corporations, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A, B and C, attached hereto and made a part hereof.

2. In providing service pursuant to the certificates herein granted, applicants shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authorities granted by this decision.

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificates herein granted. Applicants are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they 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-C.
- (b) Within one hundred twenty days after the effective date hereof, applicants shall establish the services 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 services 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) Applicants shall maintain their 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 their 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 20th day of JANUARY, 1970.

William Lyons, Jr.
President

J. P. Sullivan
Thomas P. Sullivan
James L. Sullivan
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

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Appendix A

FRANKLIN F. STEELE
dba
STEELE TRANSPORTATION

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

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

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.

Issued under authority of Decision No. **76681**
dated JANUARY 20, 1970, of the Public Utilities
Commission of the State of California, on Application No. 51160.

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Appendix A

FRANKLIN F. STEELE
(dba STEELE TRANSPORTATION)

Original Page 2

SECTION 1. GENERAL AUTHORIZATION, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

Franklin F. Steele, dba Steele Transportation by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to transport passengers between the City of Napa corporate limits and within a radius of two miles of said corporate limits, on the one hand, and the Mare Island Naval Shipyard, on the other hand, and intermediate points along State Highway 29, south to Napa Junction over the route hereinafter described, subject to the following provisions:

1. Only passengers destined to or originating at Mare Island Naval Shipyard who are employees or prospective employees at that facility shall be transported.
2. Service shall be operated only at times necessary to meet employee day shift needs.

SECTION 2. ROUTE DESCRIPTION

Commencing in the City of Napa or any point within two miles of the City of Napa corporate limits; thence to and along State Highway Routes 12-29; thence along State Highway Route 29 and State Highway Route 37 to Mare Island Naval Shipyard and return via the same routing.

Issued by California Public Utilities Commission.

Decision No. 76681, Application No. 51160.

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Appendix B

ALFONZO LOPEZ, JR.

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

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

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.

Issued under authority of Decision No. 76681,
dated JANUARY 20, 1970, of the Public Utilities
Commission of the State of California, on Application No. 51175.

SECTION 1. GENERAL AUTHORIZATION, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

Alfonzo Lopez, Jr., by the Certificate of Public Convenience and Necessity granted in the decision noted in the margin, is authorized to transport passengers between Vacaville and Fairfield and within a radius of three miles of their corporate limits, on the one hand, and Mare Island Naval Shipyard, on the other hand, over the routes hereinafter described, subject to the following provisions:

- a. Only passengers destined to or originating at the Mare Island Naval Shipyard who are employees or prospective employees at that facility shall be transported.
- b. Service shall be operated only at times necessary to meet employee shift needs.

SECTION 2. ROUTE DESCRIPTIONS

Vacaville Route

Commencing in the City of Vacaville or any point within three miles of said city's corporate limits; thence to Interstate Highway 80; thence southwesterly along Interstate Highway 80 to State Highway Route 37; thence westerly and southwesterly along State Highway 37 to the Mare Island Naval Shipyard and return via the same routing.

Issued by California Public Utilities Commission.

Decision No. 76681 Application No. 51175.

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Appendix B

ALFONZO LOPEZ, JR.

Original Page 3

Fairfield Route

Commencing in the City of Fairfield or any point within three miles of said city's corporate limits; thence to Interstate Highway 80; thence along Interstate Highway 80 southwesterly to State Highway Route 37; thence westerly and southwesterly along State Highway Route 37 to the Mare Island Naval Shipyard and return via the same routing.

Issued by California Public Utilities Commission.

Decision No. 76681. Application No. 51175.

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Appendix C

ELWOOD M. BOBO

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

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

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.

Issued under authority of Decision No. 76681
dated JANUARY 20, 1970, of the Public Utilities
Commission of the State of California, on Application No. 51178.

SECTION 1. GENERAL AUTHORIZATION, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

Elwood M. Bobo, by Certificate of Public Convenience and Necessity granted in the decision noted in the margin, is authorized to transport passengers between San Rafael, on the one hand, and Mare Island Naval Shipyard, on the other hand, over the routes hereinafter described, subject to the following provisions:

- a. Only passengers destined to or originating at Mare Island Naval Shipyard who are employees or prospective employees at that facility shall be transported.
- b. Routes hereinafter described are via the most appropriate streets and highways with motor vehicles being operated in accordance with governing traffic regulations.
- c. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- d. Service shall be operated only at times necessary to meet employee shift needs.

SECTION 2. ROUTE DESCRIPTION

Commencing in the City of San Rafael; thence to U.S. Highway 101; thence in a northerly direction along U.S. Highway 101 to State Highway Route 37; thence northeasterly and southeasterly along State Highway Route 37 to the Mare Island Naval Shipyard.

Issued by California Public Utilities Commission.

Decision No. 76681, Application No. 51178.