

ORIGINAL

82011

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BOMAR'S CHARTER SERVICE, a sole pro-
prietorship of JAMES R. NYHAN and
MARJORIE R. NYHAN, husband and wife,
for certificate of public convenience
and necessity to operate a passenger
stage between Redwood City, County of
San Mateo, and the City and County of
San Francisco including points
intermediate thereto.

Application No. 54241
(Filed August 15, 1973;
amended September 5, 1973)

O P I N I O N

By this application, as amended, applicants request a certificate of public convenience and necessity authorizing them to operate as a passenger stage corporation between various hotels located along the peninsula south of San Francisco to Redwood City, on the one hand, and Union Square in San Francisco, on the other hand.

Applicants own three 14-passenger Dodge maxi-wagon vans, two 7-passenger limousines, and one sedan. They propose to use this equipment to operate frequent daily and night schedules generally between 9:00 a.m. and midnight over three separate routes. Depending on public demand, the frequency of service may be reduced during the winter season. The assets of the business are \$44,200 and the liabilities are \$19,300. This does not include applicants' other personal assets. The proposed fares range from \$2.50 to \$4.00 depending on the distance between the hotel and Union Square, San Francisco, and may be modified for seasonal variations in passenger traffic.

The application states that the only other transportation services available to the public between the hotels to be served and San Francisco are taxicabs, rental cars, and charter limousines;

that there is a need for the proposed service; and that the application is supported by the various hotels to be served, the San Mateo County Convention and Visitors Bureau, and the city of Burlingame as evidenced by letters attached to the application.

Applicants had been performing the proposed service prior to being informed by the Commission staff that they could not do so without the required certificate. They immediately ceased operations and filed the instant application. They allege that six drivers are hired for this service and request that the application be acted upon as soon as possible.

Copies of the application were served upon interested parties. It was listed on the Commission's Daily Calendar of August 17, 1973. To avoid any objections by Greyhound Bus Lines and Airporttransit of California, the attorney for applicants informed the Commission by letter dated August 28, 1973 that applicants will not serve the San Francisco International Airport; that service will be provided to the premises of the hotels listed in the application and Union Square in San Francisco only; that applicants will not operate vehicles with a carrying capacity of more than 14 passengers; and that other than the transportation of personal baggage accompanying a passenger, no additional transportation service, including the transportation of express matter, will be performed. Protests and requests for a public hearing were filed on September 25, 1973 by Airporttransit and on behalf of three taxicab companies that operate in the area sought to be served. The protests are not persuasive. We do not concur in the request for a public hearing. Airporttransit provides passenger stage service from and to the San Francisco International Airport. Since applicants do not request authority to serve the airport, the competitive threat of the proposed service to Airporttransit is too negligible and remote to consider. As to the protest on behalf of the taxicab companies, the passenger service they perform differs substantially from and is not comparable to that provided by a passenger stage corporation. There were no other protests.

We are of the opinion that, subject to the restrictions in applicants' aforementioned letter, the sought certificate should be granted. It is noted that applicants presently hold authority to operate as a charter-party carrier of passengers. For this reason, the restriction in the order which follows prohibiting service to the San Francisco International Airport also provides that applicants may not combine the authority granted herein with any other authority they presently hold to extend operations under this authority to include the airport. This restriction obviously does not apply to transportation performed entirely under any other authority applicants might possess.

The Commission finds that:

1. Applicants possess the necessary equipment and experience to provide the proposed service.
2. Public convenience and necessity require that the application be granted as provided in the order which follows.
3. It is reasonably certain that the project involved in this proceeding will not have a significant effect on the environment.
4. A public hearing is not necessary.

The Commission concludes that the application, as amended, should be granted as provided in the order which follows.

Applicants are 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. 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 James R. Nyhan and Marjorie R. Nyhan, authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A, attached hereto and made a part hereof, subject to the following restrictions:

- a. Applicants shall not serve the San Francisco International Airport and shall not combine the authority granted herein with any other authority they may possess to extend operations under the certificate herein to include the airport.
- b. Service shall be provided only between Union Square in San Francisco and the premises of the hotels listed in the application.
- c. Applicants shall not operate vehicles with a carrying capacity of more than fourteen passengers in providing the authorized service.
- d. Other than the transportation of personal baggage accompanying a passenger, no additional transportation service, including the transportation of express matter, shall be performed.

2. In providing service pursuant to the authority granted by this order, applicants shall comply with the following service regulations. Failure so to do may result in a cancellation of the authority.

- a. Within thirty days after the effective date of this order, applicants shall file a written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate they will be required, among other things, to comply with the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series and the insurance requirements of the Commission's General Order No. 101-Series.
- b. Within one hundred twenty days after the effective date of this order, applicants shall establish the authorized service 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 authorized service.
- 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-Series and 98-Series.

- 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 Los Angeles, California, this 16th day of OCTOBER, 1973.

Hermon L. Sturges
President
William Symons Jr.

Thomas J. Brown

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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

JR

APPENDIX A JAMES R. NYHAN AND MARJORIE R. NYHAN
 DBA BOMAR'S CHARTER SERVICE

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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. 82011
dated OCT 16, 1973 of the Public Utilities Commission
of the State of California, on Application No. 54241.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

James R. Nyhan and Marjorie R. Nyhan, husband and wife, dba Bomar's Charter Service, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between various hotels located on the San Francisco Peninsula, on the one hand, and Union Square in San Francisco, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (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) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) Applicants shall not serve the San Francisco International Airport.
- (d) Service shall be provided only between Union Square in San Francisco and the premises of the hotels listed in the application.
- (e) Applicants shall not operate vehicles with a carrying capacity of more than fourteen passengers in providing the authorized service.
- (f) Other than the transportation of personal baggage accompanying a passenger, no additional transportation service, including the transportation of express matter, shall be performed.

Issued by California Public Utilities Commission.

Decision No. 82011, Application No. 54241.

SECTION 2. ROUTE DESCRIPTIONS.

ROUTE 1. Commencing at Rodeway Inn, 380 S. Airport Blvd., South San Francisco, thence via South Airport Blvd. to International Inn, 326 S. Airport Blvd. in South San Francisco, thence via South Airport Blvd. to Royal Inn, 275 South Airport Blvd., South San Francisco, thence via South Airport Blvd. to Holiday Inn, 245 South Airport Blvd., South San Francisco, thence via South Airport Blvd. to Imperial Hotel, 222 South Airport Blvd., South San Francisco, thence via Highway 101, Highway 280, Sixth Street, Taylor Street and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street, Highway 101 to Imperial Hotel, Holiday Inn, Royal Inn, International Inn and Rodeway Inn.

ROUTE 2. Commencing at Ramada Inn, 1250 Bayshore Blvd., Burlingame, thence via Bayshore Blvd. to Hyatt Hotel, 1333 Bayshore Blvd., Burlingame, thence via Bayshore Blvd. to Airport Marina, 1380 Bayshore Blvd., Burlingame, thence via Bayshore Blvd. to Vagabond Motor Hotel, 1640 Bayshore Blvd., Burlingame, thence via Millbrae Ave. and Bayshore Blvd. to Airport Plaza Hotel, 101 Bayshore Highway, Millbrae, thence via Millbrae Ave. and Bayshore Blvd. to Hilton Inn, at the San Francisco International Airport, thence via Highway 101, Highway 280, Sixth Street, Taylor Street and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street, Highway 101 to Hilton Inn, Airport Plaza Hotel, Vagabond Hotel, Airport Marina, Hyatt Hotel and Ramada Inn.

ROUTE 3.

Commencing at Howard Johnson Hotel, Veterans Blvd. and Whipple Ave., Redwood City, thence via Highway 101 and Marine World Parkway to Holiday Inn, 1101 Shoreway Rd., Belmont, thence via Marine World Parkway, Ralston and El Camino to Villa Hotel, 4000 S. El Camino Real, San Mateo, thence via El Camino and E. Hillsdale Blvd. to Hillsdale Inn, E. Hillsdale Blvd. and South Bayshore Blvd., San Mateo, thence via Hillsdale Blvd., Highway 101, Highway 92, Delaware Ave. and Concar Dr. to the Royal Coach Motor Hotel, 1770 S. Bayshore Blvd., San Mateo, thence via Concar Drive, Delaware Ave., Highway 92, Highway 101, Highway 280, 6th Street, Taylor Street and Post Street to Union Square in San Francisco.

Return via Post Street-Montgomery Street-New Montgomery Street-Howard Street-4th Street-Brannan Street-6th Street-Highway 101 to Royal Coach Motor Hotel, Hillsdale Inn, Villa Hotel, Holiday Inn and Howard Johnson Motor Hotel.