

ORIGINALDecision No. 82597

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JAMES M. ANDERSON, dba BAY AREA
LIMOUSINE SERVICE, TCP-283, for a
Certificate of Public Convenience
and Necessity to operate as a
passenger stage corporation, oper-
ating between points in Contra Costa,
San Mateo, San Francisco and Alameda
Counties, and the airports therein.

Application No. 54348
(Filed September 26, 1973)

James M. Anderson, for himself, applicant.
Chickering and Gregory, by Robert W. Tollen,
Attorney at Law, for Airporttransit of
California and Airporttransit, Inc.,
protestants.
Marc E. Gottlieb, for the Commission staff.

O P I N I O N

Applicant is presently providing a limousine service under the authority of a charter-party permit. He has applied herein for a certificate of public convenience and necessity to authorize the establishment of an on-call transportation service for passengers and baggage between San Francisco International Airport, Oakland International Airport, Hayward Airport, and Buchanan Field in Concord, California, on the one hand, and points in Contra Costa, Alameda, and San Francisco Counties, on the other hand. Service will be available 24 hours a day, seven days a week. Rates to be charged range from \$8 for one-way transportation between Oakland and the Oakland Airport to \$18 for one-way transportation between Martinez and the San Francisco International Airport. Service provided during late evening or early morning hours will cost \$5 extra per trip. The service is to be performed with a 1965 6-passenger

Lincoln sedan and 1967, 1969, and 1974 9-passenger Cadillac limousines. Although the equipment list in the application included two Dodge late-model 14-passenger Maxi wagons, the applicant testified that he did not plan to utilize these vehicles in the operations that are the subject of this application and that he consequently did not seek authority to operate these vehicles. All vehicles are air-conditioned and have two-way radios.

Applicant's balance sheet as of September 25, 1973 shows total assets of \$29,000 and liabilities of \$6,915. A protest was filed on October 25, 1973 by Airport Transit of California (ATC) and Airport Transit, Inc. (ATI). Each is a separate corporation. The former is certificated to provide service between the San Francisco International Airport and the cities of Oakland and Berkeley. The latter provides a certificated service between the Oakland International Airport and the cities of Oakland and Berkeley, as well as Alameda and the Oakland Army Base. A public hearing was scheduled and held in San Francisco on November 16, 1973. The proceeding was submitted on the filing of points and authorities on November 30, 1973.

Applicant testified that most of his business is obtained through telephone calls. Prospective customers contact him to arrange transportation to the airport and sometimes ask to be picked up when they return. On a pickup his drivers are instructed to park the limousine in the airport garage and meet the customer in the baggage area. The passenger then walks to the car with the driver, or the latter may drive the car out of the garage and back to the loading area if the passenger is unable to walk or if he has considerable baggage. The business is operated with four full-time drivers, including himself, and two part-time drivers. One is on salary and the rest work on a commission basis. He advised that the Hayward and Buchanan Airports will only be served on a charter basis and should not be included in his certificate. His service is organized to pick people up at home and transport them to the airport in time for a particular flight, and to meet the passenger on his return flight and take him home. Applicant advised he has

occasionally charged customers individual fares and the reason for doing so has resulted in the filing of the present application. Most of applicant's business consists of transporting one passenger per trip and it seemed wasteful to book a single passenger as a charter when other individuals were going to the same destination at the same time.

The manager of a Walnut Creek travel agency testified for the applicant, as follows: She manages the agency at Rossmoor, where residents range in age from 42 to over 80 years. Many of these people do not drive a car and many do not favor bus transportation. She has used applicant's limousines to transport her clients for a year and the service is excellent. It is better than a cab service and bus transportation is not suitable for older people traveling with baggage. She testified the fare to the airport was originally \$21 for the use of a limousine. This seemed expensive since the vehicle was usually carrying only one passenger, so applicant reduced the fare to \$14 per person. One of applicant's drivers testified he has been driving for five weeks and business has increased steadily since he started to work. A fare of \$14 is charged from Walnut Creek and \$15 from Concord. A driver for a charter cooperative testified that his organization used to carry about six charters a week for the applicant. There has been no overflow business, however, since applicant hired two more drivers in August 1973.

Protestants provided the testimony of two witnesses and documentary evidence. The manager of ATC testified that it provides a certificated passenger stage service between Oakland, Oakland Army Base, Treasure Island, and the San Francisco International Airport. Various points on the Peninsula are also served which are beyond the scope of this application. He testified the service provided is on a daily basis, with three schedules in each direction. Full-size buses are used exclusively with a bus stop in downtown Oakland

at the Continental Trailways Depot. He stated revenue has decreased about 70 percent since 1969 and the number of runs has dropped from 250 trips a month in 1969 to 90 in September 1973. He ascribed the steady decline in revenue to the Government's reduction of facilities and personnel at Treasure Island and Oakland Army Base. He testified that ATC policy has been to keep operating even though revenues and patronage are declining, since it is anticipated that local airports will expand in the near future and business may improve. He further testified that new operators should not be certificated when those presently providing the service are barely making expenses.

The manager of ATI testified that it provides a certificated service with medium size buses between Oakland International Airport, downtown Oakland, and downtown Berkeley. Service is also provided in areas beyond the scope of this application. He testified that 93,000 passengers were transported in 1969 and 35,000 in 1972. ATI presently provides 50 daily trips, down from 70 scheduled through 1970. The service is operated at a loss but is subsidized by the Port of Oakland to insure its continuance.

Discussion

Applicant and protestants do not provide the same type of service. The former will provide a luxury vehicle to transport no more than two or three riders from home to an airport at a rate which will usually exceed \$14 per passenger. Protestants are providing a conventional bus service from downtown bus stops to two airports and three military or naval installations (including U. S. Coast Guard Station in Alameda) at rates which will not exceed \$2.50 per passenger. Protestants' service is between designated bus stops and follows a published schedule; applicant will pick up and deliver anywhere in his service area, 24 hours a day, 7 days a week. Protestants have no interest in Contra Costa County where most of applicant's business seems to originate and applicant does

not anticipate having many requests for transportation to Oakland Army Base or Treasure Island. Applicant has also requested that Hayward Airport and Buchanan Field in Contra Costa County be excluded from his certificate. There is no evidence to justify the inclusion of the city and county of San Francisco as a portion of applicant's service area.

Protestants argued that the application should be denied since it was admitted that individual fares were being charged while applicant held only charter authority. It is unlawful for the holder of only a charter authority to charge individual fares and although this application could be denied on that basis there are other considerations. Protestants would not be benefited by a summary denial of this application although Anderson's customers would be seriously inconvenienced. It is more practical to give Anderson the authority he needs to provide an adequate service for all of his customers.

Findings

1. Applicant operates under the authority of a permit as a charter-party carrier of passengers.
2. He has applied for a certificate to authorize an on-call service for passengers and their baggage between San Francisco International Airport, Oakland International Airport, Hayward Airport, and Buchanan Field in Concord, California, on the one hand, and points in Contra Costa, Alameda, and San Francisco Counties, on the other hand.
3. Protestants oppose any authorization to operate between San Francisco, Oakland, Berkeley, and Oakland Army Base, Treasure Island, Alameda Coast Guard Station, San Francisco International Airport, and Oakland International Airport. Protestants do not serve Contra Costa County.
4. Applicant will provide an on-call limousine service at premium rates.

5. Protestants operate a conventional service with regular buses out of designated bus stops on a published schedule.

6. The service proposed by the applicant is entirely different from that operated by protestants.

7. Protestants will not provide the service offered by applicant in the territory to be certificated to applicant.

8. Applicant testified that he prefers to have Hayward Airport and Buchanan Field excluded from his proposed operating authority. He also testified that he does not often get a request to go to either Treasure Island or the Oakland Army Base.

9. There is nothing in the record to support applicant's request to be authorized to serve the city and county of San Francisco.

10. Applicant should be authorized to establish the proposed service between points in Contra Costa and Alameda Counties, on the one hand, and Oakland and San Francisco International Airports, on the other hand. The Coast Guard Station in Alameda, Oakland Army Base, and Treasure Island will be excluded from applicant's certificate.

11. Applicant possesses the ability, experience, equipment, and financial resources needed to perform the aforesaid service.

12. Applicant's infrequent imposition of individual fares on charter passengers is not a sufficient basis to justify a denial of this application.

13. Public convenience and necessity require that the service proposed by applicant be established.

14. It is reasonably certain that the project involved in this proceeding will not have a significant effect on the environment.

The Commission concludes that the application should be granted.

Applicant is 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 M. Anderson, 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 and subject to the conditions set forth in Appendix A, attached hereto and made a part hereof.

2. In providing service pursuant to the authority granted by this order, applicant 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, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if he accepts the certificate he 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, applicant 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) Applicant shall maintain his 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 his 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 19th day of 1 MARCH, 1974.

Verdon L. Sturgeon
President
William J. Sullivan
John J. Moran
Thomas Moran
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

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.

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

By the certificate of public convenience and necessity granted by the decision noted in the margin, James M. Anderson, dba Bay Area Limousine Service, is authorized to transport passengers and baggage between points in the counties of Alameda and Contra Costa, on the one hand, and the San Francisco and Oakland International Airports, on the other hand, over the most appropriate routes and subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at one of the above specified airports.
- (b) When service is rendered, it shall be on an "on-call" basis. Tariffs and timetables shall show the conditions under which such "on-call" service will be operated.
- (c) Service shall be provided with vehicles seating no more than nine passengers, including the driver.
- (d) No service shall be provided to Treasure Island, the Oakland Army Base, the Alameda Coast Guard Station, Buchanan Field or the Hayward Airport.

Issued by California Public Utilities Commission.

Decision No. 82597, Application No. 54348.