

Decision No. 82982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
BOB BROWN'S SKI AND SPORT SHOPS, INC.,
a California corporation, for
certificate of public convenience
and necessity to operate passenger
and baggage service between East Bay
ski shops and Sierra ski resorts.

Application No. 54430
(Filed November 5, 1973)

Robert L. Brown, for Bob Brown's Ski and Sport
Shops, Inc., applicant.

Richard M. Hannon, Attorney at Law, for Greyhound
Lines - Western Division, protestant.

Sean A. Mahon, for the Commission staff.

O P I N I O N

Applicant Bob Brown's Ski and Sport Shops, Inc. requests a certificate of public convenience and necessity to operate as a passenger stage corporation during the winter snow skiing season between five ski shops located in Contra Costa County, on the one hand, and, on the other hand, the Kirkwood Meadows ski area located off of California Highway 88. Applicant also requests authority to serve the ski area of Bear Valley on California Highway 4 and unnamed ski areas on, near, and between U.S. Highway 50 and Interstate Highway 80 as alternative service points in the event deep snows prevent applicant's buses from reaching Kirkwood Meadows. On January 3, 1974 we granted applicant interim authority to serve between the five ski shops and Kirkwood Meadows. A hearing was held on the application at Lafayette on April 8, 1974 before Examiner Pilling. The application is protested by Greyhound Lines-West which appeared at the hearing and gave testimony in opposition to the application. A representative of the Commission's staff also appeared at the hearing and assisted in developing the record.

The owner of applicant testified that applicant proposes to operate in a manner similar to that which it is now operating under interim authority. He described this as being performed with two buses, one a 39-passenger 1951 GMC Model 4103 bus and the other a 15-passenger bus used when only 50 percent or less of the seats of the larger bus have been subscribed. Applicant operates one round-trip schedule every Saturday and Sunday, including holidays, and will so operate until the end of the skiing season at Kirkwood Meadows which is expected to be sometime during June. The first bus of the day leaves Bob Brown's Ski and Sport Shops at San Pablo at 5:00 a.m. and thereafter makes pickup stops at the other four designated ski shops. A rest and breakfast stop is made at Lodi and the bus arrives at Kirkwood Meadows at 9:30 a.m. The return schedule departs Kirkwood Meadows ski area at the close of the ski lifts at approximately 4:00 or 5:00 p.m. The bus is scheduled so as to afford its passengers a full day of skiing. Applicant testified that to date it has carried 464 persons and has made 24 round trips since the grant to it of its interim authority. Applicant averages 25 persons per round trip on the large bus and 12 to 13 persons on its small bus. Its repeat business averages between 18 and 20 percent. Applicant estimates that its operation has resulted in a deficit of \$8,632 for the period January 3, 1974 through March 1974. \$5,500 of that deficit was the result of expenses in connection with the rebuilding of an engine and \$1,600 was attributable to bus rentals when applicant's bus broke down. Gross receipts for that period were \$4,640. The fare is now \$10 round trip and will be \$12 next season. Applicant estimates that to break even in its operation it will need 35 round-trip passengers on each of two trips per week. Applicant testified that it solicits only individual fares though it has carried a group of 30 young persons for a busload fare. Applicant's retail sports and ski business which grossed \$372,195 during the 9-1/2-month period ending February 28, 1973 is presently underwriting the deficit of its bus operation.

Applicant testified that three times between January 3, 1974 and the end of March 1974 its bus was blocked by heavy snows from getting through to Kirkwood Meadows, so it deposited its passengers at the Bear Valley ski area located south of Kirkwood Meadows on Highway 4. Applicant stated that parts of Highway 88 were snow avalanche areas and that the bus driver stops to make periodic checks with the CHP on road conditions several times during the outbound trips. Applicant contends that because of such unstable road conditions it must have authority to drop and pick up its passengers at alternate skiing points at the election of the majority of its passengers when the bus is unable to get through to Kirkwood Meadows.

The marketing manager of Kirkwood Meadows, Inc. testified that to her knowledge there was no scheduled passenger stage service other than applicant's to Kirkwood Meadows; that upon inquiry she was told that Greyhound Lines-West would not operate to Kirkwood Meadows during the winter time because that company at the present time considered the run too dangerous due to snow conditions; that many charter bus companies do come into the area; that she has talked to many of the passengers who use applicant's service and they stated that they liked the service; and that her company supports the application.

The assistant to the vice president-traffic for protestant Greyhound Lines-West testified that his company provides seven round trips per day via Interstate Highway 80 between the East Bay area and Truckee suitable for skiers and others wishing to avail themselves of the use of ski areas in the vicinity of Interstate Highway 80 and areas south, though present scheduling of the buses would not leave enough time for a person to get in a full day's skiing (9:00 a.m. to 4:00 or 5:00 p.m.) and make a round trip the same day. His company operates 2 round trips a day between East Bay points and the South Lake Tahoe area. He testified that his company declined to

serve the Kirkwood Meadows area because of safety reasons though his company would furnish drivers and equipment in an emergency to retrieve passengers stranded, as on at least one occasion it may have done at Kirkwood Meadows. His company has no plans to serve Bear Valley. Greyhound Lines-West operates 1,687 buses, 1,376 of which are licensed in California. It possesses a Class A certificate to operate as a charter-party carrier of passengers as well as a passenger stage certificate to serve the aforementioned South Lake Tahoe and Interstate Highway 80 areas.

Findings

1. Applicant proposes to conduct a passenger stage service on Saturdays, Sundays, and holidays during the winter snow skiing season between five retail ski and sports shops located in Contra Costa County, on the one hand, and, on the other hand, the Kirkwood Meadows ski area and, as an alternative, when the road to Kirkwood Meadows is closed, other ski areas north, west, and south of Lake Tahoe and at Bear Valley.
2. The proposed service is available to those skiers who desire public transportation arranged so that they can take advantage of a full day's skiing and applicant's service is so scheduled.
3. Applicant has transported a total of 464 passengers, many of whom are repeaters, on a round-trip basis to the Kirkwood Meadows and the alternate Bear Valley ski areas during January, February, and March 1974 under its interim authority.
4. There is no scheduled passenger stage service operating between Contra Costa County and the Kirkwood Meadows and Bear Valley ski areas except that which is being offered by applicant under its interim authority.
5. Heavy snows occasionally cause abrupt closure of Highway 88, the route to the Kirkwood Meadows ski area, and when such closures have occurred applicant has successfully used Bear Valley, located on Highway 4, as an alternate point at which to drop its passengers for skiing.

6. No need has been shown for granting applicant authority to serve more than one ski area as an alternate to Kirkwood Meadows ski area.

7. Applicant has sufficient operating and financial ability to initiate and continue the service authorized herein.

8. Public convenience and necessity require the granting of a passenger stage certificate as proposed in the application to serve the Kirkwood Meadows and Bear Valley ski areas.

9. The project involved in this proceeding with reasonable certainty will not have a significant effect on the environment.

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 Bob Brown's Ski and Sport Shops, Inc., a corporation, authorizing it 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 in lieu of the interim authority granted by Decision No. 82301 as contained in the Appendix A certificate attached thereto.

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 it accepts the certificate it 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 two hundred fifty 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 its 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 its 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 18th day of JUNE, 1974.

Yessan L. Sturgeon
President
William J. ...
...
...
...
Commissioners

lmm

Appendix A BOB BROWN'S SKI AND SPORT SHOPS, INC. Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges applicable thereto. The certificate herein supersedes all operative authority heretofore granted to Bob Brown's Ski and Sport Shops, Inc.

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. 82982
dated JUN 18, 1974, of the Public Utilities
Commission of the State of California, on Application No. 54430.

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

Bob Brown's Ski and Sport Shops, Inc., a California corporation, 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 Bob's Ski and Sport in San Pablo, Sports Unlimited in Orinda, Collier's Sports Village in Lafayette, Bob's Ski and Sport in Concord, and Palace Sporting Goods in Antioch, on the one hand, and Kirkwood Meadows ski area, Bear Valley ski area, 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) Service shall be operated on a one round-trip schedule every Saturday, Sunday, and holiday during the California winter ski season only.
- (d) The carrier shall transport only those passengers whose travel is between Antioch or westerly thereof, on the one hand, and the points of Kirkwood Meadows ski area or Bear Valley, on the other hand.
- (e) The carrier shall provide service to and from only the above-named stopping points in Contra Costa County.

Issued by California Public Utilities Commission.

Decision No. 82982, Application No. 54430.

lmm

Appendix A BOB BROWN'S SKI AND SPORT SHOPS, INC. Original Page 3

SECTION 2. ROUTE DESCRIPTIONS.

Route No. 1 - Between East Bay Ski Shops and Kirkwood Meadows Ski area.
Commencing at Bob's Ski and Sport located at 14012 San Pablo Avenue, San Pablo; then eastbound via San Pablo Avenue, El Portal Drive, San Pablo Dam Road, Camino Pablo, and Orinda Way to Sports Unlimited located at 21 Orinda Way, Orinda; then via Orinda Way, State Highway 24, and Mt. Diablo Boulevard to Collier's Sports Village located at 3543 Mt. Diablo Boulevard, Lafayette; then via Mt. Diablo Boulevard, State Highway 24, Treat Boulevard, and Oak Grove Road to Bob's Ski and Sport located at 1703 Oak Grove Road, Concord; then via Oak Grove Road, Treat Boulevard, State Highway 24, State Highway 4, and "A" Street to Palace Sporting Goods located at 1619 "A" Street, Antioch; then via "A" Street, State Highway 4, State Highway 160, State Highway 12, and State Highway 88 to the Kirkwood Meadows ski area.

Issued by California Public Utilities Commission.

Decision No. 82982, Application No. 54430.

lmm

Appendix A BOB BROWN'S SKI AND SPORT SHOPS, INC. Original Page 4

SECTION 3. ALTERNATE ROUTE DESCRIPTIONS.

First Alternate Route - Between East Bay Ski Shops and Bear Valley area.

Commencing at Bob's Ski and Sport located at 14012 San Pablo Avenue, San Pablo; then eastbound via San Pablo Avenue, El Portal Drive, San Pablo Dam Road, Camino Pablo, and Orinda Way to Sports Unlimited located at 21 Orinda Way, Orinda; then via Orinda Way, State Highway 24, and Mt. Diablo Boulevard to Collier's Sports Village located at 3543 Mt. Diablo Boulevard, Lafayette; then via Mt. Diablo Boulevard, State Highway 24, Treat Boulevard, and Oak Grove Road to Bob's Ski and Sport located at 1703 Oak Grove Road, Concord; then via Oak Grove Road, Treat Boulevard, State Highway 24, State Highway 4, and "A" Street to Palace Sporting Goods located at 1619 "A" Street, Antioch; then via "A" Street, State Highway 4 to Bear Valley ski area.

Second Alternate Route - Between Martell and Angels Camp.

Commencing at junction of State Highway 88 and State Highway 49, in or near Martell, then via State Highway 49 to junction of State Highway 49 and State Highway 4 in or near Angels Camp.

Issued by California Public Utilities Commission.

Decision No. 82982, Application No. 54430.