

BD

Decision No. 83815

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of:

Northgate Transit Co., Inc.,

Complainant,

v.

Daly City Transit Systems,
Robert Alegria, Uno Andreson,
Ernesto Aparicio, Ricardo Castillo,
Jaime Cook, Jose Gonzalez, Ismael
Guzman, Parrett Hamby, Emilio Apar-
icio, Jorge Alfonso, Miguel Barta,
Carlos Cook, Francisco Espinoza,
Silvano Gonzalez, Javier Gutierrez,
Vernon Hamby, Victor Perdomo, Earl
Wheeler, Jose Rivera, Francisco
Ortega & Mateo Mattheus,

Defendants.

Case No. 9829

ORDER GRANTING INTERIM RELIEF

Complainant is a passenger stage corporation authorized by this Commission to perform public utility service in the northern portion of San Mateo County and in the City and County of San Francisco. Defendants are a corporation, its officers, and driver-employees of defendant corporation.

The complaint alleges that defendants are conducting a passenger stage operation on or near the certificated routes of complainant, thereby causing economic harm to complainant.

Complainant further alleges that defendants are preventing complainant from operating in a normal and safe manner by harassment of complainant's drivers. Complainant asks for a cease

and desist order requiring defendants to stop interfering with the service for which complainant is authorized, pending hearing and decision on this complaint.

Under normal circumstances, a complaint of this nature would have received the immediate attention of the Commission, and a cease and desist order stopping the illegal interference with a certificated passenger stage corporation would have issued. This is not a normal situation.

Investigation by the Commission's staff disclosed that at the time the complaint was filed, complainant's corporate authority was under suspension by the Secretary of State, and had been since 1971. During this time complainant had applied for and received both rate and certificate authorizations from this Commission. A corporation under suspension by the Secretary of State may not apply for this type of relief. Similarly, a corporation under suspension by the Secretary of State may not file a complaint. (Rev & Tax Code, Sec. 23301.) For this reason, among others, the Commission has not acted on the complaint until receiving notification that the suspension had been removed by the Secretary of State.

The Commission also notes the supplemental affidavit submitted by complainant. This affidavit indicates that defendant drivers were previously drivers for complainant. Apparently these drivers own the buses they were operating under complainant's certificate. They are now driving these same buses for defendant corporation. It thus appears that this dispute may well be a labor management problem, rather than solely a problem of interference with the certificate of public convenience and necessity held by complainant.

A further complication appears because of the unique situation of the defendant drivers owning their own buses and leasing them to the complainant. When the drivers left the employ of complainant they took with them their buses, and presumably

complainant's ability to perform service. By supplemental affidavit, complainant indicates that it now has ten buses and sufficient drivers to handle these buses. This is less than the normal complement of vehicles operated by complainant, but appears to be sufficient to provide a minimum of service. Complainant indicates that this service can be supplemented with jitneys.

It now appears that complainant has removed the legal inhibition against its filing a complaint. It further appears that complainant has sufficient drivers and equipment to provide service on its certificated routes. Safety considerations require the elimination of a potentially explosive situation inherent when two competing companies are vying for the same passengers at the same pickup points. It is therefore appropriate that the temporary relief prayed for be granted pending hearing and further order of the Commission.

IT IS ORDERED that:

Defendants, and each of them, are hereby ordered to cease and desist from conducting operations as passenger stage corporations within the certificated area and along the certificated routes of complainant.

Because this conflict is causing inconvenience to the passengers within the certificated area of complainant, we shall endeavor to hold hearings on this matter at the earliest possible time. Complainant, defendants and all interested persons are hereby placed on notice that hearings may be held on less than 10 days notice. The Secretary shall mail such notice, indicating the time and place of hearing, as soon as this information is

available. Interested persons may contact the Secretary's office to obtain this information.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10th day
of DECEMBER, 1974.

Vernon L. Sturgeon
President
William Synovis, Jr.
Thomas Moran
[Signature]
Robert E. Myrland
Commissioners