

Decision No. 84178

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of GREGORY W. SPEARING and LEONARD
T. MOLNAR, doing business as SOUTH
BAY TRANSIT CO., herein apply for
Certificate of Public Convenience
and Necessity to operate passenger
service between Torrance, Redondo
Beach, Palos Verdes and the Los
Angeles International Airport.

Application No. 55256
(Filed October 17, 1974)

Leonard T. Molnar, for himself, and Gregory W.
Spearing, applicants.
Stephen T. Parry, for Southern California Rapid
Transit District, protestant.
John deBrauwere, for the Commission staff.

O P I N I O N

This is an application by Gregory W. Spearing and Leonard T. Molnar, doing business as South Bay Transit Co., a general partnership, for a certificate of public convenience and necessity authorizing operations as a passenger stage corporation over two routes as follows:

Route 1: Commencing at Hawthorne Boulevard and Silver Spur Road (Peninsula Center) in Palos Verdes Estates, then via Hawthorne to the Holiday Inn in Torrance, then via the San Diego Freeway to Los Angeles International Airport (LAX), called the Freeway Route.

Route 2: Commencing at the same location and via Hawthorne to Pacific Coast Highway (PCH) to the Ramada Inn in Torrance, then to the Plush Horse Inn in Redondo Beach, then to Redondo Beach Pier, then via PCH to LAX, called the PCH Route.

Applicants do not presently operate under Commission jurisdiction, but hold taxi (or equivalent) licenses from Palos Verdes Estates, Rolling Hills City, Torrance, and Redondo Beach, and are operating as a hybrid taxi-limousine service in those municipalities and to LAX, where applicants hold taxi operating rights issued by the proper authority.

Southern California Rapid Transit District (RTD) protested this application on the grounds that the proposed service duplicates existing RTD service, might bar RTD from establishing competitive service in the future pursuant to Section 30637 of the Public Utilities Code (Code), and that there is a possible diversion of patronage and revenues by applicants from the RTD.

A public hearing was held, and the matter was submitted on January 6, 1975 before Examiner Phillip E. Blecher.

The Evidence

Applicants presented three witnesses at the hearing. Leonard T. Molnar, one of the partners in South Bay Transit Co., testified that applicants did not intend to compete with any existing carriers, including RTD, but intended to complement RTD's service, which has two stops at, or within walking distance of, the proposed stops; namely, Plush Horse Inn on Line 102 of RTD (which line does not go to LAX), and which is near Line 51, and Torrance Boulevard and Hawthorne Boulevard stop on Line 150. He also testified that there is no existing service in the area similar to the proposed service; that there is a need for this service in the communities involved, all of which have exhibited substantial growth; and that there have been many requests to applicants to furnish such service, the requests coming not only from the general public, existing customers, and travel agents, but also various business establishments who responded

favorably to a questionnaire submitted to them by applicants before the filing of their application. Applicants solicited the proposed stops at the Holiday, Ramada, and Plush Horse Inns, the Pier, and the Peninsula Center and were met with an affirmative response to the proposed service. United Air Lines at LAX has agreed to refer its passengers needing service in the requested area.

Applicants have three pieces of equipment as follows: two 1973 Dodge B-200 Vans and one 1971 Cadillac Limousine. Applicants own one of the vans and are leasing the other vehicles.

Applicants' current financial statement (Exhibit 3) shows a partnership net worth of \$12,245.

Applicants' projected income and expense statement (Exhibit 4) and their other testimony pertaining to operations project four daily runs departing at 6:00 a.m., 10:00 a.m., 1:00 p.m., and 5:00 p.m., respectively, and arriving at LAX 45 minutes later, at a fare of \$5 per person. Monthly income is projected at \$5,400 (four runs daily for 30 days with nine passengers each run at \$5 per person). Expenses for all the vehicles were projected at \$4,200 monthly, including vehicle leasing and financing charges. The two partners operate the vehicles and have one additional driver on call. Applicants presently have \$1,000,000 injury liability insurance and \$500,000 property damage coverage on the three vehicles.

Applicants presented two public witnesses. Mrs. Dorothea Carvey of Palos Verdes Estates has been a travel agent for the past two years and has lived in the area for 24 years and testified that the proposed service would be beneficial and is necessary to the area; that it is less expensive than a cab (\$12-\$16 fare) and more convenient than the bus. She estimated that she receives at least a daily expression of dissatisfaction in regard to the transportation to LAX from the South Bay area. She believes the projected schedules are good, that both she and her clientele would benefit from the proposed

service and that the RTD service to LAX is not satisfactory. Barbara Lee Hayes of Redondo Beach is a full-time student and believes the proposed service would be beneficial to the students in the area, being more economical than cabs and more convenient and comfortable than the bus.

RTD presented two witnesses and four exhibits, all of which were timetables of various lines with which applicants' proposed service will allegedly compete. Line 102 (Exhibit 10), which stops at the Plush Horse Inn, only goes as far as Manhattan Beach and Hawthorne Boulevards and runs hourly. Line 125 (Exhibit 11) stops at the Peninsula Center (Hawthorne Boulevard and Silver Spur Road), but transfer is required to either Line 51 or 150 to arrive at LAX. This run is heavily concentrated in peak hour traffic. Line 150 (Exhibit 12) runs from Long Beach along PCH to LAX and terminates in Santa Monica. It has one stop in common with applicants' proposed service. Line 51 (Exhibit 9) has 36 runs daily, all but three of which serve LAX. Four of these runs commence at the Malaga Cove Shopping Center in Palos Verdes Peninsula. Three of the runs commence at El Segundo, and the balance commence at Redondo Beach, within walking distance of the proposed service at the Plush Horse Inn. Service is at approximate one-half hour intervals. Service on all lines is substantially reduced on weekends. Full fare on all RTD lines is 25 cents with various reduced fares offered. RTD's witnesses maintain the position that the proposed service duplicates RTD's existing service; that the proposed service might possibly divert revenue and patronage; and that RTD might be precluded in the future from establishing a competitive route, pursuant to Section 30637, if applicants are granted a certificate. RTD agreed that its maximum loss of revenue would be \$24.00 daily if applicants transported 24 passengers on each of four trips, and all the passengers were diverted from RTD, a highly unlikely circumstance.

Discussion

Section 1031 of the Code, as far as pertinent, provides:

"No passenger stage corporation shall operate...
any passenger stage over any public highway in
this State without first having obtained from
the commission a certificate declaring that
public convenience and necessity require such
operation,..."

Since there is no dispute as to the proposed service coming within the confines of a passenger stage corporation, the only issue in this proceeding is whether applicants have shown that public convenience and necessity require the proposed service.

There can be no serious dispute that the proposed service differs substantially from RTD's service, and no other service from the requested area to LAX presently exists. Nor can it be seriously disputed that applicants and RTD are seeking different patronage. Applicants are essentially requesting through service to LAX and return; RTD provides primarily local service. Applicants are proposing stops at commercial establishments, RTD does not so do. There is only one common stop, which requires a transfer on RTD, to LAX. Nor can applicants' proposed fare, 20 times that of RTD (\$5 vs. 25¢), or their service of about one-eighth the frequency and approximately the same running time be described as detrimentally competitive to RTD. Therefore, we are persuaded that the degree of competition, if existing at all, is infinitesimal and not detrimental to protestant. It is also apparent that public convenience and necessity require such direct airport service from the South Bay area, as there is no such existing service. The Ramada Inn, Holiday Inn, Plush Horse Inn, and Redondo Beach Pier have all indicated a desire and need for such service. The evidence clearly shows that the public needs and desires such service, and would use such service. Since no such service now exists and the evidence is undisputed as to the commercial and public need for such service, and applicants' proposed service is neither competitive with nor detrimental to protestant, the ensuing order

shall grant applicants the certificate as requested on the express condition that if RTD desires to establish service to LAX from the South Bay area via the San Diego Freeway (I 405), applicants' consent to such route is given by applicants' acceptance of the certificate to be granted herein.

Findings

1. The proposed operations are not competitive with nor detrimental to RTD.
2. The proposed service proposes routes and stops substantially different from those of RTD and will provide a different character of service in the requested area.
3. It is proper for the Commission to authorize service that RTD is not presently willing or able to provide. (L.A.M.T.A. v P.U.C. (1959) 52 C 2d 655.)
4. Applicants have sufficient equipment, experience, and financial resources to perform the proposed service.
5. Public convenience and necessity require that the service proposed by applicants, both to and from LAX, be established.
6. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions

1. The application should be granted in accordance with the ensuing order.
2. Gregory W. Spearing and Leonard T. Molnar, doing business as South Bay Transit Co., 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 Gregory W. Spearing and Leonard T. Molnar, doing business as South Bay Transit Co., a partnership, 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 of this decision.

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 administered by 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. By filing said written acceptance of the certificate, applicants indicate their present and future consent to the establishment, by Southern California Rapid Transit District only, of a route from the South Bay area to Los Angeles International Airport, via the San Diego Freeway (Interstate Route 405), at any future date, pursuant to Section 30637 of the Public Utilities Code.
- (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 is the date hereof.

Dated at San Francisco, California, this 11th
day of MARCH, 1975.

William L. Stevenson
President
William J. Quinn
Leonard Rose
Commissioners

ddm

Appendix A

GREGORY W. SPEARING AND LEONARD T. MOLNAR

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DBA SOUTH BAY TRANSIT CO.

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. 84178
dated MAR 11 1975 of the Public Utilities Commission
of the State of California, in Application No. 55256.

DBA SOUTH BAY TRANSIT CO.

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

Gregory W. Spearing and Leonard T. Molnar, doing business as South Bay Transit Co., by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers and their baggage between Torrance, Redondo Beach, and Palos Verdes, on the one hand, and Los Angeles International Airport, 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) No passenger shall be transported unless the trip of the passenger has a point of origin or destination at Los Angeles International Airport.
- (d) Carrier is allowed to accept or discharge passengers at one of the following points:

Holiday Inn, Torrance
Ramada Inn, Torrance
Plush Horse Inn, Redondo Beach
Redondo Beach Pier, Redondo Beach

Subject to subparagraph (c) as noted herein.

- (e) Service shall be provided with vehicles seating no more than 12 passengers including driver.

Issued by California Public Utilities Commission.

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Appendix A GREGORY W. SPEARING AND LEONARD T. MOLNAR Original Page 3

DBA SOUTH BAY TRANSIT CO.

SECTION II. ROUTE DESCRIPTIONS.

Route 1 Freeway Route

Commencing at Hawthorne Boulevard and Silver Spur Road (Peninsula Center) in Palos Verdes Estates, thence via Hawthorne Boulevard to the Holiday Inn in Torrance, thence continuing over the most appropriate and convenient streets and freeways to the Los Angeles International Airport.

Route 2 Pacific Coast Highway

Commencing at Hawthorne Boulevard and Silver Spur Road (Peninsula Center) in Palos Verdes Estates, thence via Hawthorne Boulevard, Pacific Coast Highway to the Ramada Inn in Torrance, thence continuing over the most appropriate and convenient streets and highways; to the Plush Horse Inn and the Redondo Beach pier in Redondo Beach thence continuing over the most appropriate streets and highways to the Los Angeles International Airport.

Issued by California Public Utilities Commission.

Decision No. 84178, Application No. 55256.