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ORIGINAL

Decision No. 85052

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SOUTHERN CALIFORNIA COMMUTER BUS
SERVICE, INC., a California
corporation,

Complainant,

vs.

GARLENE ZAPPITELLI, an individual,
Defendant.

Case No. 9797
(Filed September 23, 1974)

SUPPLEMENTAL OPINION

On September 23, 1974 Southern California Commuter Bus Service, Inc., a California corporation, filed a complaint with the Commission against Garlene Zappitelli (Zappitelli). The complaint alleged that Zappitelli was operating as a passenger stage corporation without a certificate in violation of Section 1031 of the Public Utilities Code and requested, among other things, that the Commission issue an immediate cease and desist order. On October 8, 1974, the Commission issued an interim cease and desist order, pending disposition of the complaint proceeding and further order of the Commission.

A public hearing was held on December 11, 1974. On April 15, 1975, Decision No. 84316 was issued, in which the Commission found that Zappitelli was operating as a passenger stage corporation without a certificate of public convenience and necessity as required by Section 1031 of the Public Utilities Code, and ordered Zappitelli to cease and desist such operations. The Commission also set forth guidelines in Decision No. 84316 for individuals using vans for car pools who wish to avoid passenger stage regulation.

On July 1, 1975, the Commission issued Decision No. 84622, which granted the petition for rehearing of Decision No. 84316 filed by the State of California Department of Transportation with respect to the guidelines set forth therein and concurrently opened an investigation in Case No. 9939 with respect to the need for the establishment of guidelines for the operation of private vehicles, including vans, over the public highways as car pools by those persons who wish to avoid regulation as passenger stage corporations.

Decision No. 85051 issued OCT 28 1975 in Case No. 9939 states that Section 226 of the Public Utilities Code was amended effective January 1, 1976 to exclude from the definition of passenger stage corporation the transportation of persons in a passenger vehicle having a seating capacity of 15 passengers or less from place of residence to place of employment, if the driver himself is on the way to or from his place of employment. That decision also adopted the revision of Section 226 as guidelines until such revision becomes effective on January 1, 1976.

The Department of Transportation filed a petition to rescind Decision No. 84316 on September 15, 1975 and to cancel the order granting rehearing of that decision ordered in Decision No. 84622, citing the amendment of Section 226.

In the circumstances, the guidelines set forth in Decision No. 84316 in Case No. 9797 for individuals using vans for car pooling who wish to avoid regulation as passenger stage corporations should be rescinded, and the guidelines referred to in Decision No. 85051 should be applicable to the issues raised in Case No. 9797.

Decision No. 84316 concluded that, based on the guidelines set forth therein, Zappitelli was operating as a passenger stage corporation within the meaning of the Public Utilities Code, and ordered Zappitelli to cease and desist from such operations.

We have reviewed the evidence adduced in Case No. 9797 and the findings and conclusions set forth in Decision No. 84316. Based on such review, we find that Zappitelli's operations complained of in Case No. 9797 will fall within the exclusion from the definition of passenger stage corporation that becomes effective January 1, 1976, which statutory provisions have been adopted as guidelines by the Commission in the interim period to January 1, 1976.

In the circumstances, we conclude that the order in Decision No. 84316 should be rescinded and that the relief requested in Case No. 9797 should be denied.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. The "guidelines to individuals using vans for car pooling who wish to avoid passenger stage regulation" set forth in Decision No. 84316 (mimeo. pages 14 and 15) are rescinded.
2. The order granting rehearing of Decision No. 84316 (Decision No. 84622) is rescinded.

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3. Ordering Paragraphs 1 and 3 of Decision No. 84316 are canceled.

4. The relief requested in Case No. 9797 is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28th
day of OCTOBER, 1975.

William J. ... President
Demon L. ...
Howard ...
Robert ... Commissioners