

Decision No. 85508

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
WILBUR S. FLANIGAN, dba ROYAL STAGE
LINE for Certificate of public
Convenience and necessity to operate
Motor vehicle Passenger Stage
service between the Disneyland/
Anaheim Area, County of Orange,
State of California and MAGIC
MOUNTAIN, City of Valencia, County
of Los Angeles, State of California.

Application No. 55791

(Filed July 7, 1975)

Claude D. Brock, Attorney at Law,
and Marc C. Tovstein, for
applicant.

W. L. McCracken, Attorney at Law,
for Greyhound Lines, Inc.,
protestant.

David Christiansen, Attorney at
Law, for Gray Line Tours Co.;
and James H. Lyons, Attorney
at Law, for Orange Coast
Sightseeing Co.; interested
parties.

John deBrauwere, for the Commission
staff.

O P I N I O N

Wilbur S. Flanigan, dba Royal Stage Line (Flanigan), a sole proprietorship, requests a certificate of public convenience and necessity authorizing operation of a passenger stage service between the Disneyland/Anaheim area and intermediate points in Orange County and Magic Mountain in Valencia, Los Angeles County, over the following route:

Beginning at the Disneyland Hotel on Cerritos Avenue, to West Street, to Katella Avenue, west and then east to Harbor Boulevard, south and then north to Katella Avenue, east and then west to Harbor Boulevard, to Freedman Way, east and then west to Harbor Boulevard, to Ball Road, west and then east to Santa Ana Freeway, to Magic Mountain, and return to the Disneyland Hotel by the same route.

He anticipates that passengers will use the service to and from the following hotels and motels:

Disneyland, Wanderlust, Lamplighter, Princess, Space Age Lodge, Alamo, Anaheim Motor Lodge, Skyview, Inn of Tomorrow, Kona Kai, Eden Rock, Magic Carpet, Golden Forest, Heidi, Musketeer, Alpine, Waikiki, Sir Rudimar, Jolly Roger, Royal Inn, Quality Inn, Peter Pan, Holiday Inn, Zaby's, Ivanhoe, Little Boy Blue, Riviera, Westward Ho, Somos, Lucky "7", Viking, Candy Cane, Fantasy, Hyatt House, Grand, Marco Polo, Saga, Parkvue, Mecca, Tropicana, Carousel, Howard Johnson's Motor Lodge, Sheraton Anaheim, Frontier, Sandman, Tops, and Anaheim Tropic.

The proposed round-trip fare is \$6 for adults and \$4 for children, and Flanigan anticipates that Magic Mountain tickets will be sold aboard the bus so that tickets will include the additional price of the Magic Mountain ticket.

Copies of the application were served on eight passenger stage lines or bus lines which may be affected by the proposed operation or who now operate between any of the points proposed to be served by Flanigan. A letter from Greyhound Lines, Inc. (Greyhound), dated August 1, 1975, protested the issuance of the certificate. Public hearing was held in Los Angeles before Examiner James D. Tante on September 12, 1975 and the matter was submitted on that date.

At the hearing Greyhound objected to the issuance of the certificate and contended that the present service from the Disneyland/Anaheim area to Magic Mountain is adequate and that if it is found not to be adequate, Greyhound stated that it will provide adequate service to the satisfaction of the Commission. The Gray Line Tours Company (Gray Line) has filed an application requesting authority to provide such service and made no contention with respect to the present adequacy of the service between the two points, but contended that Flanigan was not financially able to provide the service as set forth in the application. Orange Coast Sightseeing Company, an interested party, took no position with respect to the issuance of the certificate. The staff expressed the opinion that the present service was inadequate, that Flanigan was not financially able to provide the required service, and that if the certificate is denied, Greyhound should be instructed to improve the service between the two points.

A Gray Line advertisement (Exhibit 1); a Greyhound timetable (Exhibit 2); a copy of Flanigan's motor vehicle lease (Exhibit 4); and a copy of Appendix A to Greyhound's Decision No. 39394 (Exhibit 6) were received in evidence.

Gertrude Vicedomini, group sales manager, public relations director, and member of the board of directors of Magic Mountain, Inc. and the Valencia Recreation Corporation; Flanigan; John deBrauwere, staff representative; Claude Brock, attorney for applicant; and Jack Cracknell, a bus driver for Town Tour Fun Bus Company between the Disneyland area and Knott's Berry Farm and previously operation supervisor for the Town Tour Fun Bus Company from January 1973 to January 1975; testified at the request of Flanigan. Marvin G. Gragg, director of traffic for Greyhound, testified at the request of Greyhound.

From 1971, when Magic Mountain first opened, to July 1, 1975, the public transportation available from the Disneyland/Anaheim area to Magic Mountain was by the Southern California Rapid Transit District in Anaheim, or the Greyhound bus from its terminal in Anaheim, about one-half mile from Disneyland, to the Greyhound terminal in Los Angeles where one would then board a different Greyhound bus for Magic Mountain. There is no evidence as to the length of time it would take or the schedule for the Southern California Rapid District bus from Anaheim to the Greyhound terminal in Los Angeles. In order to proceed by Greyhound, one would get to the Greyhound terminal in Anaheim by walking, taking a taxi, or by bus that commutes between the hotels and motels and the Greyhound terminal, and then proceed by bus to the Los Angeles Greyhound terminal. A Greyhound bus scheduled to leave the Anaheim terminal at 9:20 a.m. would arrive at the Los Angeles terminal at 10:00 a.m. One would then have to wait in the terminal until 10:45 a.m. when a Greyhound bus would leave there and arrive at Magic Mountain at 12:15 p.m., a total elapsed time from the Anaheim terminal to Magic Mountain of 2 hours and 55 minutes. The return trip would be over the same route and take the same

period of time, so the round trip would consume approximately 5 hours and 50 minutes plus the time that it would take the passengers to get to and from the Anaheim terminal. Commencing July 1, 1975 an arrangement was made whereby the Gray Line would pick up passengers at approximately 8:00 a.m. in the Anaheim/Disneyland area and transport them to the Gray Line terminal in Los Angeles, arriving there at approximately 9:00 a.m. At 9:10 a.m. the passengers would board a Greyhound bus to Magic Mountain arriving there at approximately 10:00 a.m., an elapsed time of approximately two hours. The return trip would leave Magic Mountain by Greyhound at 3:13 p.m. and arrive at the Gray Line terminal in Los Angeles at 5:00 p.m., transfer to a Gray Line bus and leave there at 5:10 a.m., arriving in the Disneyland area at approximately 6:30 p.m., an elapsed time of approximately 3 hours and 15 minutes, for a total elapsed time for the round trip of approximately 5 hours and 15 minutes.

In 1974, of the 13 major Southern California attractions, Magic Mountain ranked third in number of persons attending and attendance has been steadily increasing since that time. It is open from Memorial Day to Labor Day, approximately May 26 to September 9, on a full-time basis and then during the other 8-1/2 months of the year is open on weekends, holidays, and school vacation periods. There is no direct bus service from the Anaheim area to Magic Mountain and witness Vicedomini testified that the present service is inadequate and that she is familiar with Flanigan's proposed bus service and that such a service is needed. She stated that she tried for three years to get Greyhound and Gray Line to improve their service and nothing was done until July 1 of this year and the

service as improved is still not adequate. She stated that Magic Mountain is the only major attraction in Southern California that does not have direct service from the Disneyland/Anaheim area.

Flanigan testified that he has been a bus driver for 20 years and that during the last two and one-half years to April 1975 he has worked for Town Tour Fun Bus Company operating a bus between the Disneyland area and Knott's Berry Farm. He made six trips a day, six days a week, and had from 80 to 114 persons on his bus on each trip. He stated that he received many inquiries regarding a direct trip from the Anaheim/Disneyland area to Magic Mountain and that on each trip at least two persons requested such information, and that he received requests from travel agents and persons employed by hotels and motels in the area concerning the need for such service.

During a two-week period in August, based upon incorrect advice by his attorney, Flanigan operated his bus between the Disneyland area and Magic Mountain and had more than ten passengers (the number of passengers that he stated was necessary in order for him to prevent operating at a loss) on each trip. He has made arrangements to lease a 1961, 51-passenger, Flexible air-conditioned bus from Fiesta Leasing Company at an average rental of \$725 per month. He has purchased a 1974, 15-passenger Dodge van for \$5,000 and owes \$3,000 on this vehicle. He proposes to start his run at 8:55 a.m. and proceed to all of the hotels and motels set forth in his application for the purpose of picking up passengers who desire transportation to Magic Mountain. In the event that the number of passengers is over 15 and under 51, he will proceed with the Flexible bus. In the event that the number of passengers is

under 15, he will have them transfer to the 15-passenger van and proceed to Magic Mountain. In the event that the number of passengers is more than 51 and less than 66, he will have a driver standing by and proceed with both the Flexible and the 15-passenger vehicle. In the event that the number of passengers exceeds 66, he has made arrangements to have either Peabody Charter Lines or Ed Simms American Charter Bus or Stardust Charter Bus furnish an additional bus and driver to provide proper service to the public requesting such service. He stated that he intends to have two large buses operating next year. He further stated that he will operate every day that Magic Mountain is open and in the event that he is ill, he has made arrangements to have someone take his place for the period of his illness. He stated that he would proceed on the trip even if he had only one passenger. After beginning his trip at 8:55 a.m., he will have completed picking up passengers at the hotels and motels and will be on the freeway bound for Magic Mountain at 9:30 a.m., arriving there at 10:40 a.m. The passengers will be permitted to remain at Magic Mountain for approximately eight hours until 7:00 or 7:15 p.m. and then the return trip will take approximately one hour and five minutes. The entire round trip would consume approximately two hours and 50 minutes.

Flanigan stated that he will abide by all of the Commission's rules; that he has a savings account of approximately \$5,000, an income of \$900 per month for ten years; that \$28,000 is due him in the very near future as down payment for certain real property that he has sold; and that he has an Army retirement income of \$268 per month; and that he is financially able to conduct the business in accordance with the request as set forth in the application.

Jack Cracknell testified that as operation supervisor and bus driver for Town Tour Fun Bus Company he has had many inquiries about a direct means of transportation from the Disneyland/Anaheim area to Magic Mountain; that such a service is needed and the present service is inadequate.

John deBrauwere, staff representative, testified that he had received one letter complaining about the Greyhound bus service and had received two telephone calls complaining about the service and that he had requested those persons who had telephoned to reduce their complaints to writing but they had failed to do so.

Marvin G. Gragg, director of traffic for Greyhound, testified about the present service available between the Disneyland/Anaheim area and Magic Mountain and stated that in his opinion the service was adequate. He stated that during May through August of 1975, 1,578 package units consisting of round-trip Greyhound transportation and park admissions were sold, but he was unable to state how many of these involved transportation from the Disneyland/Anaheim area. During the same period in 1975 there were 361 such packages sold by Gray Line from Los Angeles to Magic Mountain and 205 from Anaheim to Magic Mountain. He stated that during this same period, there were 5,174 passengers carried on round-trip Greyhound transportation to Magic Mountain without admission tickets, but was unable to state how many of these, if any, originated in the Disneyland/Anaheim area. He further testified that if the present service is not satisfactory to the Commission, Greyhound will make improvements as requested by the Commission. He did not suggest any change in the present service.

Findings

1. Passenger stage service is available to the public by the Southern California Rapid Transit District to the Greyhound terminal in Los Angeles and by Greyhound from its terminal in Anaheim to its terminal in Los Angeles and then in each of these cases by Greyhound bus to Magic Mountain; and by Gray Line from the Disneyland/Anaheim area to its terminal in Los Angeles and then by Greyhound bus from there to Magic Mountain, and in all cases return to the Disneyland/Anaheim area by the same route. The service provided by the route through the Greyhound terminal in Los Angeles would require the passengers to proceed to the place of origination in the Disneyland/Anaheim area, would require a wait of approximately 45 minutes in the Greyhound terminal in Los Angeles, and would consume approximately six hours for the round trip. The service provided by the Gray Line to its terminal in Los Angeles and then by Greyhound to Magic Mountain and return by the same route would consume approximately five hours and would permit the passengers to be in the area of Magic Mountain for approximately five hours.

2. Flanigan's passenger stage service would consume approximately three hours for the round trip and permit the passengers to remain at Magic Mountain for approximately eight hours.

3. Greyhound now has a certificate of convenience and necessity to operate between the Disneyland/Anaheim area and Magic Mountain, and is operating between those points by itself and also in conjunction with Gray Line. The service so provided is not adequate and is not satisfactory to the Commission. Greyhound has not offered any plan to provide satisfactory service and the evidence does not show that it will provide such service to the satisfaction of the Commission.

4. Public convenience and necessity require that Flanigan be authorized to engage in the operation of a passenger stage service from Anaheim/Disneyland, Orange County, to Magic Mountain, Valencia, Los Angeles County, and return.

5. Flanigan possesses the desirable experience, necessary equipment, and financial resources to provide the proposed service.

6. The proposed fares are reasonable.

7. It is reasonably certain that the project will not have a significant effect on the environment.

The Commission concludes that the application should be granted as set forth in the ensuing order.

Wilbur S. Flanigan, doing business as Royal Stage Line, 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 a 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 Wilbur S. Flanigan, doing business as Royal Stage Line, 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, 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 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.
- (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 2nd day of MARCH, 1976.

 President
William J. Sweeney
Vermon L. Stetgen
Alon
Robert Paterson Commissioners

Appendix A

Wilbur S. Flanigan
dba
ROYAL STAGE LINE

Original Page 1

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS A PASSENGER STAGE CORPORATION

Wilbur S. Flanigan, doing business as Royal Stage Line, by the Certificate of Public Convenience and Necessity to operate as a passenger stage corporation granted by the decision noted in the margin, is authorized to transport passengers between hotels and motels in the Disneyland/Anaheim service area in Orange County described below, on the one hand, and Magic Mountain in Valencia, Los Angeles County, on the other hand, over the most appropriate route, subject to the following provisions:

- (a) The Disneyland/Anaheim service area is bounded by Lincoln Avenue on the North, Anaheim Boulevard on the East, Chapman Avenue on the South, and Euclid Avenue on the West.
- (b) Service shall be limited to the transportation of round-trip passengers only.
- (c) Service shall be provided on each day that Magic Mountain is open to the public.
- (d) Vehicle operation shall be in accordance with local traffic regulations.

Issued under authority of Decision No. 85508, dated MAR 2 - 1976,
of the Public Utilities Commission of the State of California, in
Application No. 55791.