

ORIGINAL

Decision No. 855C1

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
Valen Parking Management, Inc. d/b/a  
THE TOWN TOUR (FUNBUS) Co., for  
Certificate of Public Convenience and  
Necessity to operate motor vehicle  
passenger stage service (described as  
the Fun Bus Sports Flyer) between  
Orange and Los Angeles Counties, State  
of California.

Application No. 55427  
(Filed January 6, 1975)

Dennis V. Menke, Attorney at Law, for applicant.  
Suzanne E. Gifford, Attorney at Law, for  
Southern California Rapid Transit District,  
protestant.

John deBrauwere, for the Commission staff.

O P I N I O N

Valen Parking Management, Inc., doing business as The Town Tour (FunBus) Co. (FunBus), is a California corporation operating as a passenger stage corporation pursuant to a certificate of public convenience and necessity granted by D.80616 dated October 17, 1972 in A.52932 and amended by D.85023 dated October 21, 1975 in A.55625.

By this application FunBus seeks to enlarge its certificated operations. It requests authority to operate between the Anaheim/Disneyland area in Orange County, and points in Los Angeles County, viz.: Los Alamitos Race Track, Hollywood Park Race Track/The Forum, Los Angeles Coliseum and Sports Arena, and the Los Angeles Dodger Stadium. This service is to be known as the Fun Bus Sports Flyer, to be conducted on a direct, point-to-point basis. One-way and round-trip adult and children fares are proposed; the one-way adult fares range from \$1.50 to \$2.25. Schedules and timetables are

dependent upon the activities scheduled at the various sporting locations. The schedules and timetables will be published and filed as soon as confirmed dates for the various events are received. FunBus requests that a discretionary right be granted to cancel any trip where 10 or less patrons request the service.

Protests were filed by The Gray Line Tours Company (Gray Line) and the Southern California Rapid Transit District (District). Gray Line subsequently advised the Commission by letter that it would not submit evidence at the hearing. No appearance was made at the hearing by Gray Line.

Hearing was held on June 18, 1975 before Examiner Bernard A. Peeters in Los Angeles. The matter was submitted subject to the filing of briefs due July 7, 1975. The briefs have been filed and the matter is ready for decision.

#### The Evidence

FunBus presented four witnesses, one of whom was its president, and 11 exhibits. It was demonstrated that although Gray Line has authority to serve the points which FunBus seeks, except Dodger Stadium (Exhibit 1), only two services were operated - Hollywood Park, last run in 1973, and Los Alamitos, last operated in 1972 (Exhibit 5). It was pointed out that Gray Line never operated a scheduled service, over specified routes, to the points being sought herein.

Insofar as District's service is concerned, FunBus' evidence shows that its service from the Anaheim/Disneyland area to the various sport destinations requires one or more transfers and takes an inordinate amount of travel time to and from the origin and destinations in issue here. The type of service offered by District is suitable for local and commuter traffic, but not for the specialized

point-to-point service for which authority is sought. FunBus concludes from this that there is no conflict with District's service, since the two are not comparable services, either in actual operation, convenience, or price.

FunBus owns or leases 15 buses of which three are owned and the balance leased. The equipment ranges in age from 1947 to 1968 models and in size from 36 to 51 passengers. FunBus proposes to use two 39-passenger recliner buses, with restrooms, for the sought service.

FunBus projects an annual income from the six proposed routes of \$114,525, annual expenses of \$55,880, plus an allowance for advertising and contingencies of \$5,726, producing a projected net income, before taxes, of \$52,919. The balance sheet for the year ending December 31, 1974 shows total assets of \$137,380.75, total liabilities of \$55,572.43, and total stockholders' equity of \$81,808.32 made up, in part, of \$31,905.64 of retained earnings. The current ratio is 1.15. The income statement for the year ending December 31, 1974 shows total income of \$587,346.44, direct expenses of \$443,915.99, and administrative and general expenses of \$119,910.36, producing a net income, before taxes, of \$23,520. The most recent balance sheet, as of March 31, 1975, shows total assets of \$128,184, total liabilities of \$52,626, and stockholders' equity of \$75,578, of which \$39,225 is retained earnings. The current ratio is 1.08. The income statement for the month of March 1975 shows total income of \$37,582, direct expenses of \$28,660, and administrative and general expenses of \$5,430, producing a net income, before taxes, of \$3,492.

Other than its request for the discretionary right to cancel a trip, no evidence was adduced on this matter.

The three witnesses supporting FunBus' application were from the Hollywood Turf Club, the manager of operations for Los Alamitos Race Track, and a self-employed person who operates the "Box Office" in Anaheim and provides a sightseeing and tourist service. Eight letters of support from various hotels in the Disneyland area, The Forum, the Los Angeles Coliseum Commission, and the Los Angeles Dodgers, Inc. were introduced. The substance of the testimony and exhibits shows that there are many daily inquiries from the public concerning the availability of direct public transportation service to the various sporting events in and around Los Angeles. It shows that the public service that is available is inconvenient, too time consuming because of transfers involved in Los Angeles, and does not provide adequate return transportation late at night after the events are over. The only convenient and direct transportation available is by taxicab or the chartering of a bus. It was pointed out that District's service, while it does serve the points in question is not attractive, nor convenient, despite the much lower fare, because of the transfer at the terminal in downtown Los Angeles which requires a three-block walk to a connecting bus. This is particularly unattractive on the return movement after a late evening sporting event.

District had distributed prepared testimony of its general counsel in advance of the hearing, in accordance with the Examiner's direction. This was not introduced into evidence at the hearing. Instead, District adduced its evidence through its planning department head. He attempted to controvert FunBus' evidence by pointing out the specific lines operated by District that serve the various destination points. It was admitted that a transfer is generally involved. District pointed out that it provides a demand type of service to the points in issue, and that a service director is maintained at the race tracks, Dodger Stadium, and at Disneyland to see that buses are available in accordance with the demand.

Discussion

District objects to the proposed service on the grounds that it will inhibit District's growth and is not consistent with the legislative intent for establishing the District. On the other hand, District requests that a condition precedent be imposed upon FunBus if any or all of the sought authority is granted which should be similar to the condition imposed by the Commission on COMBUS in D.83467 dated September 17, 1974 in A.54213, rehearing denied January 14, 1975 in D.83983. The condition would relieve District of the consent requirement in Section 30637 of the Public Utilities Code,<sup>1/</sup> by requiring FunBus to consent, in advance, to any future competitive service District might establish. ✓

District takes the position that it should not be prevented from establishing or extending service intended to accommodate large numbers of people with destinations all along a route, because they may, incidentally, be able thereby to reach a destination which they could also reach by means of specialized service offered by FunBus.

FunBus argues that the type of service it is proposing is different than the type of service District offers; therefore, there is no conflict. FunBus proposes to offer a direct, point-to-point service for a particular segment of the public (primarily tourists) as differentiated from the mass transit, destination-along-route service offered by District. It further argues that it is unreasonable to expect FunBus to develop, invest, or otherwise build up a clientele

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<sup>1/</sup> "30637. ✓

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"The district shall not establish, ...any rapid transit service or system in such manner or form as will or may, either then or at any time in the future, divert, lessen, or compete for the patronage or revenues of the existing system of a publicly or privately owned public utility without the consent of the public utility, if the existing system has been in operation since at least August 1, 1974."

for this service, unless it can be, in some reasonable fashion, assured that District will not come in at a later date and offer a similar service, at a lower fare, thus depleting FunBus' patronage and revenues.

District's argument admits the distinction drawn by FunBus in that District provides service for large numbers of people with destinations along a route which is not the point-to-point service proposed here. Although District has long-range plans for expansion of its service, they are neither specific nor certain. While we understand District's fears we do not agree that the application of FunBus should be denied. In the matter of imposing a condition as was imposed on ComBus we have reviewed Section 30637 and conclude that the intent of the Legislature was to limit the protection afforded by the section to the system of a public utility as it existed prior to August 1, 1974. Any routes or portions of a system certified thereafter would not be protected against District competition; and a public utility system that began operations after August 1, 1974 would be wholly unprotected. Therefore, the imposition of a condition upon the granting of the certificate requested by this application is not needed. FunBus should be aware that under this interpretation District may compete without FunBus's consent at any time.

The request for a discretionary right to cancel a trip when there are 10 or less passengers is not consistent with a scheduled operation over a specific route with one-way and round-trip fares. This is one of the matters FunBus pointed out with respect to Gray Line's protest. It is also inconsistent with the demand shown for the proposed service. We will not grant this request.

Findings of Fact

1. FunBus was granted a certificate of public convenience and necessity as a passenger stage corporation by D.80616 dated October 17, 1972 in A.52932 as amended by D.85023 dated October 21, 1975 in A.55625.
2. Protestant Gray Line, by its failure to appear, has effectively withdrawn its protest.
3. Protestant District provides a mass transit operation to the points sought by FunBus.
4. District's service to and from the points sought by FunBus involves transfers at the downtown Los Angeles terminal, with a three-block walk to the connecting bus line.
5. The proposed service for which authority is sought by FunBus is a specialized point-to-point service aimed primarily at the tourist trade.
6. The proposed service is a different type of service than that which is offered by District.
7. District's present service does not meet the public convenience.
8. FunBus has the financial capability, experience, and equipment to initiate the proposed service.
9. Public convenience and necessity require the proposed service.
10. It is inconsistent with the public convenience and necessity to grant FunBus a discretionary right to cancel a trip when 10 or less passengers are available.

11. As a matter of administrative convenience, an in lieu certificate should be issued. Therefore, the certificate granted by D.80616 as amended by D.85023 should be revoked.

12. It is reasonably certain that the project involved here will not have a significant effect upon the environment.

13. No conditions should be put on the certificate regarding future operations of District as Section 30637 does not apply to the certificate granted herein.

Conclusion

A certificate of public convenience and necessity to conduct the proposed passenger stage operations should be issued. As a matter of administrative convenience the certificate granted herein will be in lieu of the certificate granted by D.80616, which will be revoked. The condition requested by District will be denied.

FunBus 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 Valen Parking Management, Inc., a corporation, dba The Town Tour (FunBus) Co., 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 of this decision.



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 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 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.

3. The certificate of public convenience and necessity granted by Decisions Nos. 80616 and 85023 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 2.

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

Dated at San Francisco, California, this 16th  
day of MARCH, 1976.

[Signature] President  
William Synov  
Vernon L. Sturgeon  
Moss  
Bob Buttrick  
Commissioners

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Appendix A

VALEN PARKING MANAGEMENT, INC. Original Title Page  
dba  
THE TOWN TOUR (FUNBUS) CO.

CERTIFICATE  
OF  
PUBLIC CONVENIENCE AND NECESSITY

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Showing passenger stage operative rights, restrictions, limitations,  
exceptions, and privileges applicable thereto.

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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.

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Issued under authority of Decision No. 85561,  
dated MAR 16 1976, of the Public Utilities Commission  
of the State of California, in Application No. 55427.

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Issued by California Public Utilities Commission.

Decision No. 85561, Application No. 55427.

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

Valen Parking Management, Inc., doing business as The Town Tour (FunBus) Co., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers between points within the County of Orange, and certain territories intermediate and adjacent thereto, and between points in Orange County, on the one hand, and Los Alamitos Race Track in Orange County, Hollywood Park Race Track, The Forum, and Los Angeles Coliseum and Sports Arena, in Los Angeles County, 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 on Routes Nos. 1 and 2 shall be available in coordination with events at the Los Alamitos Race Track, Hollywood Park Race Track, The Forum, Los Angeles Coliseum and Sports Arena, and Los Angeles Dodger Stadium.
- (d) Service on Route No. 2, shall be available in coordination with events at the Convention Center.
- (e) Service on Route No. 3, Stadium-East Katella Ave., is available for regularly scheduled night, day, or special event baseball games of the California Angels at the Anaheim Stadium.
- (f) Service on Route No. 4, Anaheim-Buena Park, shall be operated seven days per week except Christmas.

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## SECTION 2. ROUTE DESCRIPTIONS.

Route No. 1 - DISNEYLAND PARK SHUTTLE

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence on West Street, Katella Ave., Harbor Blvd., Royal Inn and Holiday Inn, return on Harbor Blvd., Manchester Ave., Greyhound Depot, continue on Manchester Ave., Hotel Way, and to Disneyland Park.

Alternate Route

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence on West Street, Cerritos Ave., Walnut Street, Katella Ave., West Street, Convention Way, Harbor Blvd., and to Disneyland Park.

Route No. 2 - CONVENTION CENTER SHUTTLEAlternate A

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence on West Street, Cerritos Ave., or exit on Cerritos Ave., Walnut Street, Katella Ave., Convention Center, then exit on Convention Way, West Street, and to the point of beginning.

Alternate B

Commencing at the Holiday Inn, 1850 Harbor Blvd., Anaheim, thence on Harbor Blvd., Hotel Way, Grand Hotel, return on Hotel Way, Harbor Blvd., Ball Road, Royal Coach Motor Inn, return on Ball Road, Harbor Blvd., Katella Ave., Convention Center, then exit on Convention Way or Katella Ave., Harbor Blvd., and to point of beginning.

Alternate C

Any combination of Alternates A and B to service motels used by the convention delegates.

Route No. 3 - STADIUM - EAST KATELLA AVENUE

Commencing at the Royal Coach Motor Inn, 1015 West Ball Road, Anaheim, thence on West Street, Ball Road, West Street, Disneyland Hotel, continue on West Street, Katella Ave., Casa Vista Street, Katella Ave., Harbor Blvd., Royal Inn, and Holiday Inn, return on Harbor Blvd., Manchester Ave., Hotel Way, Grand Hotel, return on Hotel Way, Manchester Ave., Haster Street, Katella Ave., State College Blvd., Orangewood Ave., and to Anaheim Stadium.

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## SECTION 2. ROUTE DESCRIPTIONS. (Continued)

Route No. 4 - ANAHEIM - BUENA PARK

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence on West Street, Katella Ave., Casa Vista Street, Katella Ave., Harbor Blvd., Hotel Way, Grand Hotel, return on Hotel Way, Harbor Blvd., Ball Road, Royal Coach Motor Hotel, proceed on Ball Road, Beach Blvd. (State Highway 39), Knott's Berry Farm, on to the property thereof, Crescent to Stanton Ave., Buena Park Shopping Center, La Palma, Knott Ave., Orangethorpe to Movieland, Knott Ave., Japanese Village, return on Knott Ave., Orangethorpe, Beach Blvd., Movieland Wax Museum and the hotels and motels along the section of Beach Blvd., past the intersection of La Palma and Beach, which has the Cottage Pottery and the Alligator Farm and then proceed south back to Knott's Berry Farm.

Route No. 5 - LOS ALAMITOS RACE TRACK

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence connecting with Routes Nos. 1 and 2 hereof and over the most convenient and appropriate streets and freeways to the Los Alamitos Race Track.

Route No. 6 - HOLLYWOOD PARK RACE TRACK - THE FORUM

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence connecting with Routes Nos. 1 and 2 hereof and over the most convenient and appropriate streets and freeways to the Hollywood Park Race Track and/or to The Forum.

Route No. 7 - LOS ANGELES COLISEUM AND SPORTS ARENA

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence connecting with Routes Nos. 1 and 2 hereof and over the most convenient and appropriate streets and freeways to the Los Angeles Coliseum and/or the Sports Arena.

Route No. 8 - LOS ANGELES DODGER STADIUM

Commencing at the Disneyland Hotel, 1150 West Cerritos Ave., Anaheim, thence connecting with Routes Nos. 1 and 2 hereof and over the most convenient and appropriate streets and freeways to the Los Angeles Dodger Stadium.

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## SECTION 2. ROUTE DESCRIPTIONS. (Continued)

Route No. 9. Anaheim - Newport Beach

Commencing at the Balboa Bay Club in Balboa, thence via Pacific Coast Highway, Jamboree Road, the Newporter Inn Hotel (Newport Dunes Beach); thence via Jamboree Road, Santa Barbara Avenue, Newport Center Drive to the Marriott Hotel; thence via Newport Center Drive to the entrance of the Fashion Island Shopping Center; thence via Newport Center Drive, Santa Rosa Avenue, San Joaquin Hills Road, to Rogers Gardens; thence via MacArthur Drive, Ford Road, MacArthur Boulevard, Birch to the Sheraton Hotel; thence via Birch, Dove Street, Campus Drive to Movieland of the Air Museum; thence via Campus Drive, Bristol Street, Redhill Boulevard, Baker Avenue to Briggs Cunningham Automotive Museum; thence via Baker Avenue, Bristol Street to the Holiday Inn; thence via Anton Boulevard to the South Coast Plaza Hotel; thence via Anton Boulevard to the South Coast Plaza Shopping Center; thence via Bristol Street, San Diego Freeway, Interstate 405, Newport Freeway, Santa Ana Freeway, Interstate 5, Santa Ana Freeway, Interstate 5, Harbor Boulevard off-ramp connecting with Routes 1 and 2 for Disneyland, and Anaheim Convention Center.

Alternate Route

Originates at Disneyland, thence via authorized Routes 1 and 2, thence via Katella Avenue to Interstate 5 and reverse of the above route.

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