

ORIGINAL

Decision No. 86227

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ROY L. ARLEDGE, an individual doing business as UNITED TRANSIT, for authority to extend passenger stage service from United Airlines Maintenance Base to include Cupertino, Sunnyvale, Santa Clara, Los Gatos, San Jose, and Mountain View and to Lockheed Missile and Space Co., Sunnyvale from the San Jose area.

Application No. 54409
(Filed October 26, 1973)

In the Matter of the Application of ROY L. ARLEDGE, an individual, doing business as UNITED TRANSIT, for authority to increase certain fares for his service from United Airlines Maintenance Base to include Cupertino, Sunnyvale, Santa Clara, Los Gatos, San Jose, Mountain View, Los Altos, Palo Alto and to adjust certain routes as hereinafter described.

Application No. 54560
(Filed January 4, 1974)

In the Matter of the Application of ROY L. ARLEDGE, an individual, doing business as UNITED TRANSIT, for authority to extend passenger stage service from Lockheed Missile and Space Company in Sunnyvale to Aptos, Santa Cruz, Scotts Valley, Summit, San Jose, Milpitas, Cupertino, Sunnyvale, Saratoga, and Santa Clara and to United Airlines Maintenance Base from the San Jose area.

Application No. 54561
(Filed January 4, 1974)

Application of ROY L. ARLEDGE, doing business as UNITED TRANSIT, for a certificate of public convenience and necessity authorizing passenger stage service from anywhere in Santa Clara County to companies in Santa Clara, San Mateo, Alameda, or San Francisco Counties, and to establish fares, and to operate along certain fixed routes as hereinafter described.

Application No. 54727
(Filed March 14, 1974)

Lois J. Kohler, dba VALLEY CHARTER
LINES,

Complainant,

vs.

Roy L. Arledge, dba UNITED TRANSIT,

Defendant.

Case No. 9645
(Filed December 26, 1973)

Investigation on the Commission's own
motion into home-to-work passenger
stage service between Santa Clara
County and the United Airlines
Maintenance Base at the San Francisco
International Airport.

Case No. 9725
(Filed April 30, 1974)

Donald Klein, for Commuter Service, Inc.,
petitioner and respondent.
Robert D. Ellis, Attorney at Law, for
Whippet Charter Service, Inc.,
respondent.
James T. Quinn, Attorney at Law, for the
Commission staff.

O P I N I O N

By its order dated April 30, 1974 in Case No. 9725, the Commission instituted an investigation on its own motion into the home-to-work passenger stage services between Santa Clara County and the United Airlines Maintenance Base at the San Francisco International Airport. By Decision No. 85057 dated October 28, 1975, the Commission issued new certificates to the respondents restating their respective operating authorities. On November 7, 1975 Commute Service, Inc. (Commute) filed a petition for rehearing alleging that the certificate granted Whippet Charter Service, Inc. (Whippet)

exceeded the scope of that previously held by Whippet, in that the new certificate authorized service for swing shift employees who reside in Milpitas. On March 2, 1976 the Commission granted rehearing limited to the question of whether the certificate authorizing Whippet to operate swing shift service between Milpitas and the United Airlines Maintenance Base was supported by the record.

Public hearing was held before Examiner Daly on May 14, 1976 at San Francisco and was submitted upon concurrent briefs.

The record indicates that on January 31, 1972, Whippet filed Application No. 53115 requesting authority to operate between Milpitas and United Airlines Maintenance Base located at the San Francisco International Airport; that the proposed service was limited to the graveyard shift as set forth in the time schedule attached to the application; that as justification for the authority requested Whippet alleged "there is no service available to these employees at this time of day"; that a copy of the application was served upon Commute, which was then providing a daytime service between said points; that no protest was filed and on April 25, 1972, ex parte order (Decision No. 79990) was issued authorizing Whippet to operate between Milpitas and the maintenance base, but inadvertently contained no restriction limiting service to the graveyard shift; that Whippet thereafter commenced service between Milpitas and the maintenance base; that Whippet limited its service to the graveyard shift and continued to do so until April 24, 1975, when it commenced an additional swing shift service between said points; that in response to a letter of complaint filed by Commute, the Executive Director of the Commission, by letter dated May 15, 1975, advised Whippet that it was exceeding the scope of its certificate by providing the swing shift service and ordered Whippet to cease and desist such

services; that during the course of hearing in Case No. 9725 and related matters the Commission staff introduced Exhibit 15 setting forth the proposed certificates, which contained restrictive pickup and discharge points for each carrier, but which did not exceed the scope of authorities contained in previously granted certificates; that the proposed certificate for Whippet, as set forth in Exhibit 15, specifically limited service between Milpitas and the maintenance base to the graveyard shift; and that on October 28, 1975, Decision No. 85057 was issued, which again, through inadvertence, overstated the operating authority of Whippet by authorizing service between Milpitas and the maintenance base for both the graveyard and swing shifts.

After consideration the Commission finds that:

1. Decision No. 79990, by failing to specifically restrict the service of Whippet to the graveyard shift, and Decision No. 85057, by including the swing shift, both exceeded the scope of authority originally requested by Whippet in Application No. 53115.

2. As originally filed, Whippet requested authority for the graveyard shift only. Because of the limited request, Commute filed no protest and the application was handled on an ex parte basis.

3. The confusion that may have resulted between the limited proposal of the application and the unrestricted scope of the certificate issued must rest with the Commission, but it appears that if there was any confusion on the part of Whippet it did not become evident until April 1975, when it first commenced operating a swing shift service. For approximately three years Whippet confined itself to serving the graveyard shift as it requested in the application.

4. The intent and purpose of the Commission's investigation in Case No. 9725 was to clarify the operating authorities of the

respondents, not to enlarge them, and there is nothing in that record to support swing shift service by Whippet.

The Commission concludes that the certificate of public convenience and necessity granted to Whippet by Decision No. 85057 should be amended by deleting therefrom swing shift service between Milpitas and the United Airlines Maintenance Base at the San Francisco International Airport.

O R D E R

IT IS ORDERED that:

1. Whippet Charter Service, Inc. shall cease and desist from providing service for the swing shift between Milpitas and the United Airlines Maintenance Base at the San Francisco International Airport.

2. Appendix D of Decision No. 85057 dated October 28, 1975 in Case No. 9725 is hereby amended by substituting First Revised Page 5 attached hereto and by reference made a part hereof in place of Original Page 5.

3. Within sixty days after the effective date hereof Whippet Charter Service, Inc. shall amend its timetables on file with this Commission to reflect the discontinuance of swing shift service.

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

Dated at San Francisco, California, this 10th day of AUGUST, 1976.

William J. Lyons President
Vernon L. Sturgeon
Alton
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Robert Batanovich, being necessarily absent, did not participate in the disposition of this proceeding.

SECTION 3. ROUTE DESCRIPTION.

ROUTE I. Commencing at any point within the Union City service area, thence to the Fremont service area, thence to the Newark service area, thence via Union City service area to the Hayward service area, thence to the United Airlines Maintenance Base at or near the San Francisco International Airport, via any and all appropriate routes, and return via the same routing.

ROUTE II. Commencing at the intersection of Dyer Street and Industrial Parkway SW in the City of Union City; thence continuing along Dyer Street to Alvarado-Niles Road; thence along Alvarado-Niles Road to State Highway No. 17 (also known as Nimitz Freeway), thence to the City of Milpitas; and the most direct and appropriate route to the United Airlines Maintenance Base at or near the San Francisco International Airport.

Pickup and discharge points in the City of Milpitas and Santa Clara County are further restricted to specific points as follows:

N. Park Victoria Drive & Kennedy Drive**
Park Victoria Drive & Calaveras Blvd.**
S. Park Victoria Drive & Landess Ave.**
Trimble Road & Old Oakland Road**
Trimble Road & De La Cruz Blvd.**

** Graveyard Shift.

Issued by California Public Utilities Commission.

Decision No. 86227, Case No. 9725.