

Decision No. 86467

ORIGINAL

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
the Economic Opportunity Commission  
of Imperial County, Inc. for  
certificate of public convenience  
and necessity to operate passenger  
service within Imperial County under  
Section 1031 of the Public Utilities  
Code.

Application No. 55380  
(Filed December 11, 1974)

Cameron Hendry, Warren Dale, and Peter Berger, for  
Economic Opportunity Commission of Imperial County, Inc.,  
applicant.

Richard M. Hannon, Attorney at Law, for Greyhound Lines,  
Inc.; Thomas Heim and John Meyers, Attorneys at Law,  
for City Cab Co. and Brawley Cab Co.; Eddie Ward,  
for Brawley Cab Co.; Annie M. Gutierrez, Attorney  
at Law, for Calexico Transit System; and William W.  
Zornes, for City Cab Co.; protestants.

Jose Long Maldonado, for Economic Opportunity Commission;  
Senior Affairs, Economic Opportunity Commission, by  
Ellen Jepson, for Senior Citizens, Imperial County;  
Richard D. Mitchell, for Imperial County Planning  
Director; Jack Ortega, for Calexico Community Action  
Council; Morris L. Wills, for himself; Dean A. Leptich,  
for Imperial Valley College; and Jan Swanson, for  
Department of Health Community Services Section;  
interested parties.

Ora A. Phillips, for the Commission staff.

O P I N I O N

Applicant Economic Opportunity Commission of Imperial County, Inc., a private, nonprofit, eleemosynary corporation, requests authority to conduct a dial-a-ride passenger stage operation and a scheduled fixed termini operation over a system of variable routes throughout a portion of Imperial County. The application was protested by two taxicab companies, Calexico Transit System, and Greyhound Lines, Inc. (Greyhound). A hearing was held in El Centro on June 5 and 6, 1975.

One of the principal purposes in the formation of applicant, as listed in its articles of incorporation, was to assist in the development of a Community Action Program designed to alleviate and eradicate, insofar as possible, the causes and effects of poverty within Imperial County. To implement its programs it actively seeks aid and/or funds from local, state, and federal sources. It has received several grants of money from the State of California and a local Imperial County agency to buy buses to provide transportation for indigent senior citizens and retarded persons in connection with certain state and county health and welfare programs. Under one such program applicant has contracted with the state to provide daily bus transportation for 200 indigent senior citizens from their homes to a place where they receive free lunches furnished by the state, and return. In all, six minibuses have been purchased by applicant with the grant money. Buses so purchased must be returned to the granting agency at the termination or nonrenewal of the grant. In addition, applicant owns one minibus. Applicant's proposal is to operate a scheduled terminal-to-terminal bus service and in connection therewith a dial-a-ride operation in the irrigated area of Imperial County. It will use the buses obtained under the grants in the proposed operation when the buses are not being devoted to the purposes of the grants. Applicant feels it can secure approval from the granting agency to use the buses in the public bus operation, but no such approval has as yet been requested or given.

Applicant's basic operations will consist of north-south schedules serving points between and including Niland on the north and Calexico on the south. No single schedule will operate all the way between Calexico and Niland. Certain schedules will operate between Calexico and Brawley with selected intermediate stops. Others will run between Calexico and El Centro, between El Centro and Seeley, between Holtville and Imperial Valley College, and between

Brawley and Niland. In all, 12 schedules a day will be operated in both directions. Service limited to a minimum of 4 passengers per trip will be offered north of Niland to and from Salton Sea points and east-west between Ocotillo and El Centro. The first schedule of the day will leave the origin point at 7:00 a.m. and the last at 5:45 p.m. Except for the proposed dial-a-ride service applicant is presently conducting operations for the general public substantially conforming to those for which it requests a certificate.

Applicant employs senior citizens as drivers. Applicant's central dispatch office is able to contact each bus by radio. Dial-a-ride service will be offered whereby a prospective rider may be picked up or dropped off at the rider's home or other origin or destination point not on the scheduled route simply by telephoning applicant's central dispatch for the service. Central dispatch will assess the situation as to the location of its buses at the time a call for a pickup is received and give the caller an estimated time when the bus will be able to make the pickup. Central dispatch will then order the appropriate bus schedule to deviate from its regular route to make the pickup. Applicant will charge a fare of 35¢ for service within any one city. Its intercity fares, other than those to and from Salton Sea points and Ocotillo, will range from 70¢ to \$2.45 depending on the length of the passage. Senior citizens will be offered reduced fares of 25¢ for intracity service and from 50¢ to \$1.75 for intercity service. The fare to or from Salton Sea points will be \$2.00 for Brawley passengers and \$3.00 for El Centro passengers and the fare between Ocotillo and El Centro will be \$1.75 with senior citizens being offered reduced fares.

The witness for applicant testified that applicant will use some of the money received from government welfare grants to keep its fares low. The witness estimated that to operate its buses for a full year the combined grant and public bus service would cost

it approximately \$120,455 a year. It estimates that it would receive approximately \$64,480 from present grants and, based on a survey, \$51,261 from passenger fares not under grant or a total of \$115,741 gross income for the year. Applicant also anticipates receiving future government grants to transport welfare recipients which it will use in part to finance its modified dial-a-ride operation.

The application was supported by 30 persons, many of whom are infirm or indigent senior citizens, persons on welfare or on low incomes, or representing disadvantaged groups, who reside both outside of and inside of cities and who declared a need for door-to-door bus transportation to go to the doctor, to obtain food, medicine, and other necessities. They testified collectively that they could not drive an automobile, did not have an automobile, and had no private transportation available to take them to a bus stop. Several of the supporting witnesses complained about the high taxi fare and that Greyhound was unable to accommodate persons confined to wheelchairs. Several witnesses with physical infirmities complained that they were unable to board a Greyhound bus because the first step was too high, but that applicant's buses were easy to board and alight from because the buses were equipped with a pull-down step which is low to the ground when pulled down. Their testimony related to bus transportation from outlying districts to cities, from cities to outlying districts, between cities, and within cities.

The Dean of Students of Imperial Valley College testified that his college had no living facilities, had 5,200 enrollees of which 50 percent were minority students dependent on transportation to get to and from the campus, that between 600 and 700 of its students received federal financial support which gives them only \$250 a year for transportation, and that applicant's low cost transportation is badly needed. Imperial Valley College is not served by any bus line.

A representative of the El Centro Community Services Center of the State Department of Health testified that she travels approximately 3,500 miles a month by automobile in her work with developmentally and mentally retarded persons and that she has to pick up these persons and bring them into the center. She wants public transportation to bring these persons into the center thus enabling her to utilize the time saved on driving to see her clients more often.

Protestant Greyhound conducts a passenger stage operation between all scheduled stops proposed to be served by applicant except Ocotillo, Seeley, two points on the Salton Sea, and Imperial Valley College. Greyhound operates 18 schedules a day in both directions between El Centro and Calexico, 6 of which are local El Centro-Calexico runs and the remainder through schedules which serve, in addition to El Centro and Calexico, various points sought to be served by applicant, viz; Westmorland, Salton Beach, Niland, Calipatria, Brawley, Imperial, and Heber. Some fares charged by Greyhound are higher than applicant proposes to charge; other fares are lower. Greyhound does not offer service between two points both of which are in a single city. Greyhound does not offer dial-a-ride service. The witness for Greyhound testified that buses cost his company \$80,000 each and that the buses are equipped with rest rooms. He testified that during May of 1975 his company grossed \$2,309 on 1,270 tickets between Brawley on the one hand and on the other Calexico, Heber, El Centro, Imperial, Westmorland, Calipatria, and Niland; \$5,437 on 5,059 tickets between El Centro on the one hand and on the other Calexico, Heber, Holtville, Imperial, Brawley, Westmorland, Calipatria, and Niland; and \$7,974 on 6,541 tickets between Calexico on the one hand and on the other Heber, El Centro, Imperial, Brawley, Westmorland, Calipatria, and Niland, or a total of \$15,693 from ticket sales between those points.

City Cab Co. of El Centro and Brawley Cab Co. protest the granting of the application insofar as it may authorize the operation of a door-to-door minibus operation in their cities. The former stated it has already felt the effects of applicant's alleged unlawful operations and estimates that it would lose between 20 and 25 percent of its business if applicant was certificated to operate within El Centro. The owners of both taxicab companies earn their living through the operations of their cabs. Calexico Transit System operates an intracity bus service in Calexico and objects to the authorization of an additional bus service in that city. Applicant stated at the hearing that applicant would not object to a restriction preventing it from transporting passengers between points in Calexico.

Discussion

The record demonstrates a need for the dial-a-ride operation catering to senior citizens, families on welfare, elderly persons on low fixed incomes, and persons who are physically infirm or mentally handicapped, between the population centers in the Imperial Valley, on the one hand, and on the other outlying areas, and between points in outlying areas. However, no restriction will be placed on the class of persons - poor, rich, healthy, infirm, etc. - to be transported in such service since many of the classes of disadvantaged persons cannot be defined or determined with any degree of accuracy.

Applicant's proposed scheduled operations between Calexico, Heber, El Centro, Brawley, Imperial, Westmorland, Salton Beach, Calipatria, Niland, and Holtville will be directly competitive with those given by Greyhound which offers an abundance of terminal-to-terminal scheduled operations between those cities. Section 1032 of the Public Utilities Code reads in part as follows:

"1032. . . . The commission may, after hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving such territory will not provide such service to the satisfaction of the commission."

Greyhound's service has not been shown to be unsatisfactory or inadequate between the above-named population centers, except in the transportation of handicapped persons and in coordinated operations in connection with group welfare activities conducted by a governmental agency when the transportation is done under written contract with a governmental agency and fares are paid by that agency. Therefore, applicant's regular route service between and within those 10 population centers will be limited to transporting the latter two classes of persons.

Imperial Valley College is not served by any bus line and a need has been shown for service between Imperial Valley College, on the one hand, and on the other, Calexico, Brawley, El Centro, Imperial, and Holtville, and points intermediate thereto.

Because applicant can expect to receive calls for service between various city and community pairs on repeated occasions, it will be operating over regular routes and hence will require a passenger stage certificate to perform such operations.

Applicant was furnished money by a government agency to buy buses to furnish transportation for senior citizens in connection with a social services program being conducted by the agency. We are not convinced that use of those buses to transport the general public for compensation in competition with private enterprise is entirely proper. We will therefore require applicant to cause any agency which has granted applicant money to purchase any of the buses which are to be used in the proposed passenger stage operation to direct to the Commission a written verified consent satisfactory to the Commission for applicant to use those buses in the proposed passenger stage operation.

Findings

1. Applicant proposes to engage in a passenger stage operation of scheduled service between fixed termini and a dial-a-ride service.
2. Applicant is a nonprofit, charitable corporation.
3. Applicant possesses the necessary buses to perform the proposed operation.
4. The testimony of 30 witnesses evidences a public need for a dial-a-ride operation within the irrigated portion of Imperial County, except for transportation between major population centers.
5. Students, faculty, and visitors at Imperial Valley College have no public transportation available to them.
6. A public need exists for the operation of a passenger stage corporation offering scheduled service between Imperial Valley College, on the one hand, and on the other, Calexico, Brawley, El Centro, Imperial, and Holtville.



7. Greyhound offers an abundance of scheduled passenger stage service between a substantial number of the cities and communities between which applicant proposes to conduct scheduled passenger stage service.

8. Little or no public need has been shown for scheduled regular route passenger stage service between Calexico, El Centro, Heber, Imperial, Brawley, Westmorland, Salton Beach, Calipatria, Niland, or Holtville, except for the transportation of handicapped persons and in coordinated operations in connection with group welfare activities conducted by a governmental agency.

9. Six of the buses which applicant proposes to use in its operation were purchased with money furnished by a government agency for use in transporting senior citizens in connection with a social service program underwritten by the agency, and consent by the agency for applicant to use the buses in the proposed operation may be necessary.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

11. Public convenience and necessity require that a certificate to operate as a passenger stage corporation as set out in the ensuing order should be issued to Economic Opportunity Commission of Imperial County, Inc.

The Commission concludes that the application should be granted to the extent set forth in the following order.

Applicant 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 the Economic Opportunity Commission of Imperial County, Inc., a corporation, 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, 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.

- (f) Before applicant commences any service as authorized herein or not later than sixty days from the effective date of this order, whichever occurs first, applicant shall secure the written verified consent satisfactory to the Commission addressed to the Commission from any government agency which has furnished money to applicant to purchase buses that that agency approves the use of those buses by applicant in the proposed operation authorized herein.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of OCTOBER, 1976.

[Signature] President  
William J. [Signature]  
Verizon L. [Signature]  
[Signature]  
Paul Bateman Commissioners

TLR

Appendix A

ECONOMIC OPPORTUNITY COMMISSION  
OF IMPERIAL COUNTY, INC.

Original Title Page

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

---

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. 86467,  
dated May 1976, 1976 of the Public Utilities Commission  
of the State of California, in Application No. 55380.

TLR

Appendix A

ECONOMIC OPPORTUNITY COMMISSION  
OF IMPERIAL COUNTY, INC.

Original Page 1

INDEX

Page No.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS . . . . .	2
---	---

SECTION 2. AREA DESCRIPTIONS

Area Name

Main Irrigated Area . . . . .	4
Eastside of Salton Sea Area . . . . .	5
Westside of Salton Sea Area . . . . .	6

SECTION 3. CITY AND COMMUNITY AREA DESCRIPTIONS

Area Name

Community of Niland . . . . .	7
Community of Ocotillo . . . . .	7
Calexico . . . . .	7

SECTION 4. ROUTE DESCRIPTIONS

Route    Route Name

1	El Centro - Ocotillo, (Dial-a-Ride) . . . . .	8
2	Imperial Valley College (Scheduled, fixed termini) . . . . .	8

Issued by California Public Utilities Commission.

Decision No. ~~86467~~ Application No. 55380.

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

The Economic Opportunity Commission of Imperial County, Inc., 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 as more fully defined herein and their baggage in a "dial-a-ride" service between points as described herein, and to transport students, faculty, and visitors in a scheduled service between the Imperial Valley College, on the one hand, and fixed terminals in the Cities of Calexico, Brawley, El Centro, Imperial and Holtville, on the other hand, subject, however, to the authority of this Commission to change or modify the "dial-a-ride" and scheduled services at any time and subject to the following provisions:

- (a) Transportation shall be provided by minibuses with a seating capacity of not more than 15 passengers including the driver..
- (b) "Dial-a-ride" service shall be rendered via a direct route to the point of destination of a passenger, except that when more than one passenger is to be transported in a single vehicle, service shall be rendered by the most direct routing possible, taking into consideration the various points of origin and destination of the several passengers.
- (c) Dispatchers and/or drivers shall have discretion in choosing the "dial-a-ride" routing and order of origins and destinations, based upon the considerations of (b) above.
- (d) Passengers whose trips are entirely within the Calexico Area as defined herein shall not be transported.

Issued by California Public Utilities Commission.

Decision No. 86467, Application No. 55360.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,  
LIMITATIONS AND SPECIFICATIONS. (Continued)

- (e) Only passengers who have trips with either origin or destination at the Imperial Valley College shall be transported by the scheduled fixed terminal service.
- (f) Routes for the scheduled fixed terminal service may be combined.
- (g) "Dial-a-ride" service and scheduled fixed terminal service shall not be combined.
- (h) The term "dial-a-ride" as used herein refers to transportation service which is authorized to be rendered dependent on the demands made by telephone request from prospective passengers to the carrier. The tariffs and timetables shall show the conditions under which each authorized "dial-a-ride" service will be rendered.
- (i) Transportation of persons through the "dial-a-ride" service between and within the Cities of Westmorland, Calipatria, Brawley, Imperial, El Centro, Holtville and Calexico and the Communities of Ocotillo, Seeley, Heber, Niland and Salton Sea Beach is restricted to handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize present transportation facilities and services as effectively as persons who are not so affected.
- (j) Transportation of persons may be provided in coordinated operations only in connection with group welfare activities conducted by a governmental agency between points in the service areas named herein.
- (k) Transportation of persons through the "dial-a-ride" service is restricted to points outside the city limits of Westmorland, Calipatria, Brawley, Imperial, El Centro, Holtville, Calexico, and points outside three air miles from the main post office of the Communities of Ocotillo, Seeley, Heber, Niland and Salton Sea Beach, on the one hand, and to any points within the service areas named herein, on the other hand.

Issued by California Public Utilities Commission.

Decision No. 86467, Application No. 55380.



SECTION 2. SERVICE AREA DESCRIPTIONS FOR "DIAL-A-RIDE" SERVICE ONLY.

MAIN IRRIGATED AREA

North Boundary:

Flowing Wells Road between Coachella Canal and the intersection of the East Highline Canal and Noffsinger Road; Noffsinger Road between Flowing Wells Road and the Salton Sea; including the Community of Niland.

East Boundary:

The East Highline Canal between Flowing Wells Road and State Highway 78; State Highway 78 between the East Highline Canal and Whitlock Road; Whitlock Road between State Highway 78 and Road 25 $\frac{1}{2}$  (Holtville Airport); Road 25 $\frac{1}{2}$  between Whitlock Road and the East Highline Canal; the East Highline Canal between Road 25 $\frac{1}{2}$  and the All American Canal.

South Boundary:

The All American Canal between the East Highline Canal and the West Side Main Canal.

West Boundary:

The West Side Main Canal between the All American Canal and Huff Road; Huff Road between the West Side Main Canal and Imler Road; Imler Road between Huff Road and Thistle Canal; Thistle Canal and Thistle Lateral 8 between Huff Road and Monte Road; Monte Road between Thistle Lateral 8 and Forrester Road; Forrester Road between Monte Road and Baughman Road; Baughman Road between Forrester Road and Martin Road; Martin Road between Baughman Road and Walker Road; Walker Road between Martin Road and Gentry Road; Gentry Road between Walker Road and Sinclair Road; Sinclair Road between Gentry Road and the Salton Sea; the Salton Sea between Sinclair Road and Noffsinger Road.

Issued by California Public Utilities Commission.

Decision No. 86467 Application No. 55380.

SECTION 2. SERVICE AREA DESCRIPTIONS. (Continued)

EASTSIDE OF SALTON SEA AREA

North Boundary:

Imperial County/Riverside County Line between the Salton Sea and the Coachella Canal.

East Boundary:

The Coachella Canal between the Imperial County/Riverside County Line and Flowing Wells Road.

South Boundary:

Flowing Wells Road between the Coachella Canal and the intersection of the East Highline Canal and Noffsinger Road; Noffsinger Road between Flowing Wells Road and the Salton Sea; excluding the Community of Niland.

West Boundary:

Eastshore of the Salton Sea between Noffsinger Road and the Imperial County/Riverside County Line.

Issued by California Public Utilities Commission.

Decision No. 86462, Application No. 55380.

SECTION 2. SERVICE AREA DESCRIPTIONS. (Continued)

WESTSIDE OF SALTON SEA AREA

North Boundary:

Imperial County/Riverside County Line between its intersection with the Imperial County/San Diego County Line and the Salton Sea.

East Boundary:

The Salton Sea between the Imperial County/Riverside County Line and Sinclair Road east of Niland; Sinclair Road between the Salton Sea and Gentry Road; Gentry Road between Sinclair Road and Walker Road; Walker Road between Gentry Road and Martin Road; Martin Road between Walker Road and State Highway 86.

South Boundary:

State Highway 86 between Martin Road and State Highway 78; State Highway 78 between State Highway 86 and Imperial County/San Diego County Line.

West Boundary:

Imperial County/San Diego County Line between State Highway 78 and the Riverside County Line.

Issued by California Public Utilities Commission.

Decision No. 86467 Application No. 55380.

SECTION 3. COMMUNITY AND CITY AREA DESCRIPTIONS.

COMMUNITY OF NILAND

North Boundary - Beal Road.  
East Boundary - Commercial Street.  
South Boundary - Noffsinger Road.  
West Boundary - State Highway 111.

COMMUNITY OF OCOTILLO

North Boundary - Imperial Highway and Imperial Place.  
East Boundary - Boundary Avenue.  
South Boundary - State Highway 80 (Evan Hewes Highway).  
West Boundary - Shell Canyon Road.

CALEXICO AREA

The City of Calexico and the surrounding area between the  
All American Canal and the California/Baja California  
(Mexico) Border.

Issued by California Public Utilities Commission.

Decision No. 86467, Application No. 55380.

SECTION 4. ROUTE DESCRIPTIONS.

Route No.

1. El Centro - Ocotillo (Dial-a-Ride)

Between the City of El Centro, on the one hand, and the Community of Ocotillo, on the other hand, over State Highway 80 (Evans Hewes Highway).

2. Imperial Valley College (Scheduled, fixed termini)

Between the Imperial Valley College, on the one hand, and terminals in the Cities of Calexico, Brawley, El Centro, Imperial and Holtville, on the other hand, over the most appropriate streets, roads or highways.