

Decision SZ 03 103

AUG 18 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of)
Melvin F. Sims, dba Sims Executive)
Van Service, for certificate of)
public convenience and necessity to)
operate a passenger stage service)
over the most direct routes from)
points in downtown Los Angeles and)
Hollywood to Los Angeles Interna-)
tional Airport.)

Application 82-03-44
(Filed March 10, 1982)

Litwin & Barough, by Roger Sheinbein,
Attorney at Law, for applicant.
James H. Lyons, Attorney at Law, for
Airport Service, Incorporated,
protestant.

James P. Jones, for United Transportation
Union; and Donald R. Howery, by K. D.
Walpert, for Department of Transportation,
City of Los Angeles; interested parties.
Vahak Petrossian, for the Commission staff.

O P I N I O N

Applicant Melvin F. Sims requests authority to operate over an additional route between Los Angeles International Airport (LAX) and local hotels as a passenger stage corporation. At present, Sims provides scheduled service between LAX and the following hotels: Le Parc Hotel, 733 N. West Knoll Drive, Los Angeles; Bel Air Sands Hotel, 11461 Sunset Boulevard, Los Angeles; The Hyatt House, 8401 Sunset Boulevard, Hollywood; Brentwood Holiday Inn, 170 Church Lane, Los Angeles; and Sunset Marquis Hotel, 1200 N. Alta Loma Road, Los Angeles (PSC-1145). By this application Sims seeks authority to

provide scheduled service by the most convenient and appropriate route between LAX and the following hotels: Ramada Inn-Hollywood, 1160 North Vermont Avenue, Hollywood; Olympian Hotel, 1903 West Olympic Boulevard, Los Angeles; Holiday Inn-Downtown, 750 Garland Avenue, Los Angeles; Holiday Inn-Convention Center, 1020 South Figueroa Street, Los Angeles; Vagabond Hotel, 3101 South Figueroa Street, Los Angeles; and University Hilton Hotel, 3540 South Figueroa Street, Los Angeles.

Protestant Airport Service, Incorporated (Airport Service) timely filed its protest to this application, asserting it would suffer adverse financial consequences if the requested authority is granted. The hearing was held on May 24 and 25, 1982 before Administrative Law Judge Main in Los Angeles. The matter was submitted June 17, 1982 upon the filing of concurrent reply briefs.

Sims' principal business at this time is his limousine service established in 1976 (Melvin F. Sims dba Sims Limousine Service, TCP-605P). There are 5 limousines, 11 employees, and an office in the Le Parc Hotel. His existing passenger stage operation between LAX and hotels in the West Los Angeles and Hollywood area was authorized by Decision (D.) 92723 issued February 18, 1981 in Application (A.) 59468. Scheduled service started in April 1981.

His passenger stage business got off to a slow start for a number of reasons. As recently as April/May 1982 it was averaging only about 600 passengers per month. However, Sims is looking forward to business increasing on this existing route in response to an arrangement with Sunset Tours which is

expected to provide 10,000 passengers annually, a new schedule taking effect June 4, 1982 extending the service from LAX beyond 6:20 p.m. to gain access to passengers arriving at the peak evening hours, and his service becoming better known.

Sims' financial statements (Exhibits 3, 4, and 5) reflect limited financial resources. However, he has a reputation for meeting his financial obligations and a well-established limousine service business. He has made a \$30,000 deposit on the lease/purchase of 17-passenger transvans for use in the proposed service.

Sims proposes to operate between the hours of 5:30 a.m. (first departure) and 12:30 a.m. (last arrival). The schedules are to run approximately every hour. There are 15 schedules arriving at LAX and 14 schedules departing from LAX. He proposes to charge \$5.50 for a one-way adult fare and \$4 for a one-way child fare.

Sims prepared a pro forma statement of operating results for one year of his proposed service (Exhibit 9). It was based on the assumption that passengers would average out at 4 per trip on each of the 29 one-way trips per day and was made on an incremental cost basis. After correction for mathematical errors and understated commission expenses, there will be revenues of \$217,204, expenses of \$129,503, and a profit of \$87,701. However, it appears that Sims' estimates also understated mileage and travel time.

Sims testified that each of the six hotels on his proposed additional route has requested his transportation service to LAX. Attached to the application are letters to that effect from five of those hotels, the exception being the Holiday Inn-Convention Center. Bradley Edwards, general manager of the University Hilton, Serge Roberts, director of operations for the Olympian Hotel, and Jaimee Lee, director of sales for the Ramada Inn-Hollywood, attended the hearing and testified in support of the application. In essence, each of these witnesses was of the view that the proposed service would benefit his hotel, its guests, and the surrounding community.

Protestant's Evidence

Donald W. Boyles, president of Airport Service, introduced the timetable (Exhibit 12) presently operated by Airport Service to serve the routes between LAX and the downtown Los Angeles business community. Exhibit 12 also shows the routes between LAX and Los Angeles-Wilshire District and LAX and West Los Angeles-San Fernando Valley, a route between LAX and Hollywood-Universal City, and a route between LAX and Beverly Hills-Century City. These are the routes that were formerly operated by Airporttransit, which went bankrupt in 1976. The routes of Airporttransit were transferred to Airport Service in June 1979.

Boyles then introduced a survey of passengers (Exhibit 13) on the downtown Los Angeles routes of Airport Service which had been conducted in the ordinary course of business for a 15-day period commencing on April 28 through May 12, 1980. This study was intended to show, among other things, the number of persons who stayed at hotel facilities versus the surrounding community and used the service from a specific terminal point to go to and from the airport. The result shown on Table III of the study is that 64½% of the people who boarded were staying at the hotel where they picked up the service. He introduced Exhibit 14 which is a balance sheet of Airport Service as of March 31, 1982, and a statement of income for the period of January 1, 1982, through March 31, 1982. He explained the composition of the \$8,721,000 shown in the assets of Airport Service, including its facilities in Anaheim and at LAX. ✓

Boyles then introduced Exhibit 15, which is a list of equipment owned and operated by Airport Service. This is a list of buses that have 41 to 53 seats. They are all equipped with air-conditioning, public address systems, and licensed in the State of California. They are also radio-equipped for dispatching purposes and for internal direction of coaches from the supervisors. Exhibit 16 was then introduced. This was a depreciation schedule of the operating equipment of Airport Service. Boyles explained that Bus Nos. 4901 through 4906 on the second page and Nos. 4001 through 4008 on the first page were purchased for and are presently used in the service on the downtown routes. This shows a total of \$1,652,778 invested in coaches to serve downtown routes of Airport Service.

Boyles described the downtown service territory of Airport Service, formerly Airporttransit's. Within the service territory the carrier is allowed to establish a stop by simply filing a timetable; the fare has already been established by the Commission for that service territory. Airport Service has a similar territory in Beverly Hills which is delineated by the boundaries of that city.

He introduced Exhibit 17, a map of downtown Los Angeles, which shows the various hotels (marked in red) that Sims seeks to serve and the hotels (marked in blue) served by Airport Service. There are two circles on the map with a radius of one mile and centers at present terminals of Airport Service. The blue dot at Olympic and Figueroa is the Figueroa Hotel presently served by Airport Service, and the red dot immediately below it is Sims' proposed stop at the Holiday Inn-Convention Center, also at Olympic and Figueroa. He pointed out that the red dot just above and to the west of that is the Holiday Inn-Downtown on Garland Avenue, and the blue dot just to the right of that is the Los Angeles Hilton, which has 41 round trips daily being served by Airport Service. He further pointed out that the Olympian Hotel, the Holiday Inn-Downtown, and the Holiday Inn-Convention Center are all within the service territory of Airport Service. He then went on to describe what airport service from a city to an airport should be: an express service to move people from known landmarks in the community to and from the airport where the majority of the time both the hotel customer and the residents living in the communities can be served expeditiously at the lowest possible fare without reservations and for the operator to accommodate all who appear for the schedule without reservations or prior knowledge of the volume of business.

Boyles testified that if Sims' pro forma operating results were correct, Sims would divert some 100 passengers per day from the routes of Airport Service and the impact of that at \$4 a fare would develop roughly \$400 a day in diversion of revenue.

Discussion

Sims' experience and fitness are unchallenged and clearly adequate. The issues with which we are concerned therefore are: (1) Sims' financial condition, (2) economic feasibility of the proposed service, (3) the existing carrier provision in Public Utilities (PU) Code Section 1032, and (4) public need for the service.

Sims' financial statements reflect limited resources. However, he has a well-established limousine service business, a growing passenger stage business over his existing route from and to LAX, and has made a \$30,000 deposit on the purchase of transvans for the proposed service. On balance, it appears to us that Sims has the financial ability to perform the proposed service.

In the earlier critique of the operating results projected by Sims for the proposed service, we indicated a number of deficiencies. In Appendix A to this decision, our staff has recast those pro forma operating results to reflect:

1. A reduction in the number of schedules from 29 to 20 per day.
2. An increase in the one-way miles from 20 to 25.
3. Addition of 50 deadhead miles per day.
4. Addition of 2 nonrevenue hours per day.

Under the recasting, revenues which are reduced by \$67,408 still exceed expenses by \$26,222.

With respect to the existing carrier issue, there are some differences between the service proposed by Sims and that provided by Airport Service. Following is a brief comparison of the two:

1. Operation - For the LAX service, Sims would transport passengers to and from three collection points--Olympian Hotel, Holiday Inn-Downtown, and Holiday Inn-Convention Center--within Airport Service's downtown Los Angeles service area and to and from two collection points outside that service area. Airport Service operates from seven collection points within its service area. The Olympian Hotel is approximately one mile from Airport Service's nearest collection point, the Figueroa Hotel. The Holiday Inn-Downtown is approximately one-half mile from Airport Service's nearest collection point, the Hilton Hotel. The Holiday Inn-Convention Center is diagonally across the street from Airport Service's nearest collection point, the Figueroa Hotel.
2. Schedules - Sims would operate 10 or more daily round trips. Airport Service operates 41 daily round trips.
3. Equipment - Sims would operate two 17- (or possibly 22-) passenger, air-conditioned transvans. Airport Service now operates fourteen 41- to 53- passenger buses on this run.
4. Fares - Sims intends to charge \$5.50, one way, for his proposed service to or from LAX. Airport Service charges \$4, one way, for its service.

We have, therefore, an applicant who would provide different service, in certain respects, than that provided by an existing operator. The service is traditional public utility common carrier transportation directly affecting the public interest.

However, when there are such material differences between the two services, PU Code Section 1032 is not a bar to granting Sims the requested authority. We find limited competition is the best means of ensuring the public is served by carriers motivated to provide attractive service (see American Buslines, Inc., D.91279, writ of review denied). We find no persuasive evidence that competition between Airport Service and Sims would not be in the public interest.

It has been established on this record that public convenience and necessity require Sims' proposed service. It is consistent with the expansion of the airport, current development of the downtown Los Angeles area, the need to reduce congestion at the airport and on the streets, the convenience for out-of-town guests, and service to the community around the hotels (such as the University of Southern California campus).

Findings of Fact

1. Sims has the experience and expertise and the financial ability to perform the proposed service.
2. The proposed service can be profitable.
3. There is a public need for Sims' proposed service.

4. Airport Service transports passengers by 41- to 53-passenger buses between seven collection points in its downtown Los Angeles service area and LAX.

5. Sims would transport passengers by either 17-passenger or 22-passenger vans from three collection points, the Olympian Hotel, the Holiday Inn-Downtown, and the Holiday Inn-Convention Center, within Airport Service's Los Angeles downtown service area as well as from two collection points outside that service area.

6. Sims' proposed one-way fare is \$5.50, or \$1.50 higher than Airport Service's, and Sims' schedules are less frequent. A Sims' objective is to provide more personalized service than competing carriers.

7. With reference to pickup points, equipment, schedules, and fares, Sims' proposed service is materially different from Airport Service's.

8. To the extent the two services are similar, monopoly passenger stage service between Airport Service's downtown Los Angeles service area and LAX is not service to the satisfaction of the Commission.

9. Limited competition on this route will best ensure the public is served by carriers with an incentive to tailor their service and fares to attract patronage and best serve the public.

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.

Conclusions of Law

1. Public convenience and necessity have been demonstrated and the request to institute service over Sims' proposed second route should be granted.

2. PU Code Section 1032 does not apply to Sims' pickup points outside Airport Service's downtown Los Angeles service area.

3. Existing passenger stage service provided by Airport Service to and from its downtown Los Angeles service area is conducted as a monopoly, without the benefit of competition to ensure the rendering of the best possible service to the public, and in view of the instant application is not service performed to the satisfaction of the Commission.

4. The following order should be effective the date of signature because there is a demonstrated need for the proposed service.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant Melvin F. Sims, authorizing him to operate as a passenger stage corporation, as defined in PU Code Section 226, between the points and over the routes set forth in Appendix PSC-1145 to transport persons and baggage.

2. The certificate of public convenience and necessity granted in paragraph 1 shall supersede all certificates of operative authority previously granted to Melvin F. Sims, and such certificate or certificates are revoked on the effective date of the tariff filings required by paragraph 3(b).

3. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in his tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

This order is effective today.

Dated AUG 18 1982, at San Francisco, California.

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

APPENDIX A

MELVIN F. SIMS

Pro Forma Operating Results

<u>Line No.</u>			
1	Total Bus Miles	200,750	
2	Total Passengers	29,200	
3	GROSS REVENUES		\$149,796
	Operating Expenses:		
4.	Maintenance	\$ 3,513	
5.	Drivers' Wages	52,560	
6.	Fuel and Oil	24,145	
7.	Other Transportation	1,150	
8.	Commissions to Others	15,916	
9.	Traffic	1,584	
10.	Insurance	7,200	
11.	Vehicle License and Registration	1,300	
12.	Bus Lease	16,206	
13.	TOTAL EXPENSES		\$123,574
14.	OPERATING INCOME (Before Taxes)		\$ 26,222

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC - 1145

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

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 82 08 103, dated AUG 18 1982,
of the Public Utilities Commission of the State of California in
Application 82-03-44.

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Issued by California Public Utilities Commission.

Decision 82 08 103, Application 82-03-44.

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

The certificate noted supersedes all operative authority previously granted to Melvin F. Sims.

Melvin F. Sims, an individual, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage, between Los Angeles International Airport (LAX) and certain hotels in Los Angeles, over and along the routes described, subject, however, to the authority of this Commission to change or modify the 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.

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Decision SZ 08 103, Application 82-03-44.

SECTION 2. ROUTE DESCRIPTIONS.

Route 1 LAX - West Los Angeles/Hollywood

Commencing at LAX then via the most convenient streets and highways to the following hotels:

- | | | |
|--------------------------|------------------------|-------------|
| 1. Le Parc Hotel | 733 N. Westknoll Drive | Los Angeles |
| 2. Bel Air Sands Hotel | 11461 Sunset Blvd. | Los Angeles |
| 3. The Hyatt House | 8401 Sunset Blvd. | Los Angeles |
| 4. Brentwood Holiday Inn | 170 Church Lane | Los Angeles |
| 5. Sunset Marquis Hotel | 1200 N. Alta Loma Rd. | Los Angeles |

Route 2 LAX - Downtown Los Angeles/Hollywood

Commencing at LAX then via the most convenient streets and highways to the following hotels:

- | | | |
|-----------------------------|-------------------------|-------------|
| 6. Ramada Inn | 1160 N. Vermont Avenue | Los Angeles |
| 7. Olympian Hotel | 1903 West Olympic Blvd. | Los Angeles |
| 8. Holiday Inn | 750 Garland Avenue | Los Angeles |
| 9. Holiday Inn | 1020 S. Figueroa St. | Los Angeles |
| 10. Vagabond Hotel | 3101 S. Figueroa St. | Los Angeles |
| 11. University Hilton Hotel | 3540 S. Figueroa St. | Los Angeles |

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Decision 82-08-103, Application 82-03-44.

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SS Sims' financial statements reflect limited resources. However, he has a well-established limousine service business, a growing passenger stage business over his existing route from and to LAX, and has made a \$30,000 deposit on the purchase of transvans for the proposed service. On balance, it appears to us that Sims ^{has} ~~probably will have~~ the financial ability to perform the proposed service.

In the earlier critique of the operating results projected by Sims for the proposed service, we indicated a number of deficiencies. In Appendix A to this decision, our staff has recast those pro forma operating results to reflect:

1. A reduction in the number of schedules from 29 to 20 per day.
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9. Limited competition on this route will best ensure the public is served by carriers with an incentive to tailor their service and fares to attract patronage and best serve the public.

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.

SECTION 2. ROUTE DESCRIPTIONS.

Route 1 LAX - West Los Angeles/Hollywood

Commencing at LAX then via the most convenient streets and highways to the following hotels:

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Decision S2 08 103, Application 82-03-44.