

ORIGINAL

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NOV 3 - 1982

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 Ronald E. Ibold, dba Blossom Valley)
 Commute, for authority to operate as)
 a passenger stage corporation to pro-)
 vide home-to-work service between)
 Fremont and the United Airlines)
 Maintenance Base in South San)
 Francisco. 1/)

Application 82-01-36
(Filed January 18, 1982)

Ronald E. Ibold, for himself, applicant.
David E. Munoz, for Whippet Charter Service,
 Inc., protestant.

O P I N I O N

Applicant Ronald E. Ibold, dba Blossom Valley Commute, requests a certificate of public convenience and necessity to operate for one year as a passenger stage corporation in home-to-work service between eight points in Fremont and the United Airlines Maintenance Base (UAMB) in South San Francisco. The application was protested by Whippet Charter Service, Inc. (Whippet). Hearing was held on the matter before Administrative Law Judge Pilling in San Francisco on August 2, 1982.

The eight points in Fremont Ibold intends to serve are at the following street intersections and will be served outbound in the morning in the following order, and in the reverse order in the late afternoon:

1. Doane Street and Mayfair Park Avenue.
2. Senaca Park Avenue and Deauville Park Court.

1/ The caption of the application erroneously named San Jose instead of Fremont as the city to be served.

3. Isle Royal Street and Saratoga Park Street.
4. Valpey Park Avenue and Butano Drive.
5. Omar Street and Curtis Street.
6. Coco Palm Drive and Blacow Road.
7. Folsom Way and Blacow Road.
8. Mowry Avenue and Farwell Drive.

Ibold will tailor his service to serve only those UAMB employees who work on the 7:00 a.m. to 3:00 p.m. shift. His first schedule will leave the intersection of Doane Street and Mayfair Park Avenue at 5:35 each morning five days a week and will return from the UAMB shortly after 3:00 p.m. Fare will be \$13.50 per week per person or \$3 per day. A 1956 39-passenger bus will be used in the operation. The bus will be driven both ways by a UAMB employee who is on the 7:00 a.m. to 3:00 p.m. shift. Ibold has three years experience as driver and owner of East Valley Commute Service and one year as owner of Blossom Valley Commute. As of January 12, 1982 Ibold had a net worth of approximately \$125,000. West Valley Charter Service of San Jose maintains his bus and will furnish a backup bus. He estimates he needs a minimum of 25 passengers to make a profit.

The proposed service was once operated by Smith's Charter Bus Service, also known as Royal Coach. Royal Coach ceased operations about August 14, 1981 when its passenger count dropped to less than ten passengers per day average after it increased its fare 44% to about \$17 per passenger per week upon approval by the Commission. Ibold tried to buy Royal Coach's certificate but its owner would not sell. Royal Coach's certificate expired in the early part of August 1982.

On January 14, 1982 Ibold, without authority from the Commission, instituted the service for which he here seeks a certificate. He has continued to operate up to the present without appropriate operating authority although he has evidence of insurance on file with the Commission. He started with 22 passengers and now has a passenger count of 32, all of whom, except for two riders, at

one time or other rode with Royal Coach. Ibold stated that other bus operators, including Whippet which has authority to serve Fremont, had the chance to institute service over Royal Coach's vacated route between the time it stopped service and the time Ibold commenced service but they failed to do so.

The president of protestant Whippet testified that Whippet operates and has operated a certificated home-to-work bus service to and from Newark for UAMB employees who are on the 7:00 a.m. to 3:00 p.m. shift. (Whippet's current certificate authority is found in Decision 93650.) The witness for Whippet testified that all eight of Ibold's Fremont service points are located at varying distances up to 2½ miles from Whippet's service point at the Treasury Store just across the Newark-Fremont city boundary south of the intersection of California Highway 17 and Mowry Avenue. This latter point is only ½ mile from Ibold's service point at Mowry Avenue and Farwell Drive just north of the intersection of California Highway 17 and Mowry Avenue.

The president of Whippet stated that after Royal Coach ceased operations in August 1981, 12 of Royal Coach's former passengers became Whippet riders until Ibold started his operation in January 1982 when 11 of the 12 riders left Whippet to become Ibold riders. Apollo Charter Service, which operates a UAMB home-to-work service out of nearby points also lost three riders to Ibold. When Ibold started his service Whippet was operating two UAMB home-to-work routes out of Newark to serve workers on the 7:00 a.m. to 3:00 p.m. shift, using a separate 49-passenger bus to serve each route. Due to a three-year steady decline in the work force at UAMB^{2/} and the institution of Ibold's service, Whippet's ridership declined in the first half of 1982 to a point where it had only a total of 46 riders on the two

^{2/} The president of Whippet, who has 12 years of service with UAMB, was recently put on layoff status.

routes. This forced it to temporarily retire one of its buses and consolidate the two routes using only one bus to serve the consolidated routes. It will put the idle bus back in service if justified by an increase in ridership. Whippet presently has the Commission authority to conduct the proposed service. The president of Whippet stated that there is sufficient UAMB home-to-work service in the Newark-Fremont area without the need for Ibold's present or proposed service. Due to the continuing decline in the number of persons employed at UAMB the number of persons available to ride in a home-to-work service is also declining. Fewer buses, rather than more buses, are needed to satisfy the steadily dwindling traffic in the Newark-Fremont area. Ibold's operation has merely diluted the available traffic to the detriment of existing properly certificated operators.

Discussion

While we do not condone Ibold's institution of operations without proper authority from the Commission, it is evident that his Fremont service has been found to be highly convenient to some 32 workers on the 7:00 a.m. to 3:00 p.m. shift. Whippet has the authority to serve the same Fremont area Ibold proposes to serve but Whippet has chosen not to institute service in that area and did not evince a desire to institute service in that area. A denial of Ibold's application would leave that area without a UAMB home-to-work service. If Ibold's application is denied, some of his passengers would gravitate to Whippet's Newark service as 12 persons did when Royal Coach ceased operations. If the same number of riders gravitate to Whippet's service in the event Ibold's application is denied, there would still be 20 persons left without and in need of service. We do not believe the public interest is served by forcing the abandonment of a service which has been shown to be

preferred by so many people simply for the sake of allowing a few riders to be added to another carrier's service. The application will be granted. Since there is a public need for the service, the following order should be effective today.

Findings of Fact

1. Ibold requests a passenger stage certificate to operate a home-to-work service for one year between eight points in Fremont and the UAMB in South San Francisco to serve workers on the 7:00 a.m. to 3:00 p.m. shift.

2. The service previously operated by Royal Coach was discontinued in August 1981.

3. Ibold instituted the requested operations in January 1982 without proper Commission authority.

4. Ibold is now carrying approximately 32 passengers per day, all of whom, except 2 riders, at one time or other rode with Royal Coach.

5. Ibold uses and proposes to use a 39-passenger bus in the operation.

6. As of January 12, 1982, Ibold had a net worth of approximately \$125,000.

7. Whippet operates a UAMB home-to-work service for 7:00 a.m. to 3:00 p.m. shift workers out of the adjacent City of Newark, one of its service points being just $\frac{1}{2}$ mile from one of Ibold's service points.

8. All of Ibold's service points are within $2\frac{1}{2}$ miles from the Whippet service point mentioned in Finding 7.

9. Whippet has the authority to perform service over the requested route but does not offer that service.

10. There has been a steady decline in the work force at UAMB during the last three years which has forced Whippet to consolidate two of its Newark routes and temporarily retire one of its buses.

11. If Ibold's application is denied there will be approximately 20 persons who will be left without a home-to-work service.

12. Ibold is financially fit to conduct the proposed service.

13. Ibold is willing and able to conduct the proposed service.

14. Public convenience and necessity require issuance of the requested certificate.

15. 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. Application 82-01-36 should be granted.

2. Ibold should be admonished that no further extension of his operations should be initiated until he has received proper authority from this Commission.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Ronald E. Ibold, an individual, 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 First Revised Page 1 and Original Page 3, in Appendix PSC-1161, to transport passengers and their baggage.

2. 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.

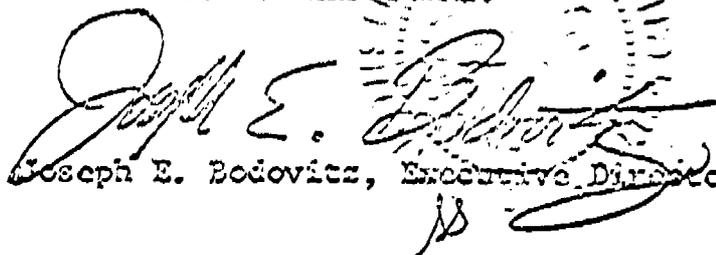
3. Ronald E. Ibold is admonished that no further extension of his operations should be initiated until he has received proper authority from this Commission.

This order is effective today.

Dated NOV 3 1982, at San Francisco, California.

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

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


Joseph E. Bodovitz, Executive Director

T/jc

Appendix PSC-1161

Ronald E. Ibold

First Revised Page 1
Cancels
Original Page 1

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

Ronald E. Ibold, doing business as Blossom Valley Commute, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers between the United Airlines Maintenance Base at San Francisco International Airport, on the one hand, and the points described, on the other hand, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. Only passengers destined to or originating at the United Airlines Maintenance Base shall be transported.
- b. Service will be operated at times necessary to meet employees' shift needs on regular working days.
- c. Service will not be operated during strikes or other work shutdowns at the Maintenance Base.
- d. Pick up and discharge of passengers will be limited to the specific points described and to the day shift only.
- e. The route traversed during pickup at the beginning of the work shift will be traveled in reverse at the end of the work shift.
- *f. The authority for the points in Fremont expires one year from the effective date of this decision.

Issued by California Public Utilities Commission.

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*Added by Decision _____, Application 82-01-36.

T/jc

Appendix PSC-1161

Ronald E. Ibold

Original Page 3

SECTION 2. DESCRIPTION OF POINTS SERVED. (Continued)

Service shall be operated between the United Airlines Maintenance Base at San Francisco International Airport and the following points in Fremont:

Day Shift Only

1. Doane Street and Mayfair Park Avenue.
2. Senaca Park Avenue and Deauville Park Court.
3. Isle Royal Street and Saratoga Park Street.
4. Valpey Park Avenue and Butano Drive.
5. Omar Street and Curtis Street.
6. Coco Palm Drive and Blacow Road.
7. Folsom Way and Blacow Road.
8. Mowry Avenue and Farwell Drive.

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