

ORIGINAL

Decision No. 87880 SEP 20 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of GEORGE RIGHETTI, an individual,
dba Super Commuter Bus Company for
authority to extend its passenger
stage service.

Application No. 56754
(Filed September 15, 1976)

In the Matter of the Application
of GEORGE RIGHETTI, an individual,
dba Super Commuter Bus Company for
authority to add additional bus
and extend its passenger stage
service.

Application No. 56776
(Filed September 23, 1976)

George C. Righetti, for applicant.
Kenneth H. Kohler and Lois J. Kohler,
for West Valley Charter Lines,
protestant.
Thomas T. Hamamoto and Ora A. Phillips,
for the Commission staff.

O P I N I O N

Application No. 56776 applies for authority to transport passengers from Los Altos via U.S. Highway 101 (Bayshore Freeway) by the most direct route to United Airlines Maintenance Base, near the San Francisco International Airport. It is alleged that no other carrier operates in the area and that service has been requested by a group of United Airlines maintenance employees. The application includes a list of 20 employees who signed a petition requesting that service be instituted over the stated route. No protests have been filed, and the Commission staff has recommended that the application be granted.

Application No. 56754 was filed for authority to transport passengers between Sunnyvale and the United Airlines Maintenance

Base at the San Francisco International Airport. The route as proposed begins at the corner of Homestead Road and Wolfe Road in Sunnyvale and traverses Homestead Road, Hollenbeck Avenue, Fremont Avenue, State Highway 85, El Camino Real, Grant Road, State Highway 85, and U.S. Highway 101 (Bayshore Freeway) to the United Airlines Maintenance Base, returning by reversing the same route. It is alleged that no other carrier operates in the area and that service has been requested by a group of United Airlines maintenance employees. The application includes a list of 30 employees who apparently added their names to a petition requesting that the proposed service be instituted. A protest was filed by West Valley Charter Lines on October 26, 1976. A hearing was held in San Francisco before Administrative Law Judge Fraser on February 4, 1977. The matter was submitted subject to the filing of late-filed exhibits, which have been received.

Applicant testified that the service to be performed will be restricted to transportation of the day shift on both applications. (The maintenance base also employs a night and graveyard shift when operating 24 hours.) He stated service will be performed with two bases. He owns one bus and leases the other with an option to buy. He admitted he is already transporting passengers over the routes he is requesting authority to serve in the current applications. He testified that in 1975 he purchased the authority to serve Santa Clara, Sunnyvale, Cupertino, and Los Altos from Roy Arledge, dba United Transit. He did not remember the date of purchase but is ready to apply to the Commission for approval of the transfer.

Applicant testified his present routes cover Palo Alto, Los Altos, Mountain View, Sunnyvale, and Cupertino at weekly rates (for five days round-trip transportation) of \$7.50 to \$9.50. Both of applicant's buses are in service daily. One carries 27 passengers and the other, 38 to 40. Applicant stated his buses are inspected and maintained by a retired mechanic formerly with Greyhound

Lines, West. Applicant further testified that he started transporting from the points noted above at the request of his fellow workers, who advised that his service would be a convenience since no other transportation was available.

Protestant asserted that Decision No. 82618 dated March 19, 1974 (Application No. 54260) provided that Righetti was limited to operation west of Highway 85 in Sunnyvale (Exhibit 2). Decision No. 85057 dated October 28, 1975 in Case No. 9725 delineated the routes and areas to be served by Lois J. Kohler (West Valley Charter Lines), Roy L. Arledge (United Transit), and the present applicant. Original Pages 3 and 4, Appendix F of the latter decision (Exhibit 1) set forth Righetti's routes between Mountain View-Palo Alto and the United Airlines Maintenance Base. Righetti was issued no authority to pick up in Sunnyvale, Cupertino, or Los Altos. Protestant Lois Kohler testified that Roy Arledge was insolvent after January 1, 1976 (as United Transit) and had all of his authority revoked by Decision 85797 dated May 11, 1976 in Application No. 56309 (Exhibit 3). She further testified that West Valley Charter Lines increased its daily fare (round trip) to \$2.50 and weekly fare to \$12.50, effective July 24, 1976, after receiving Commission authorization (Exhibit 4). She testified that the West Valley route in Sunnyvale will only support one operator. West Valley Charter Lines operated two schedules with 32 and 42 passengers transported as a daily average. Patronage has dropped to less than 20 and to 24 since Righetti started providing service at lower fares. Protestant's Exhibit 6 compares West Valley Charter Lines' Routes D-6 and D-7 with applicant's proposed route, over which service is currently provided. Applicant's route serves the same area as protestant's D-7 with the schedules extending parallel and one or two blocks apart for approximately one mile.

Findings

1. Applicant should be authorized to transport employees of the United Airlines Maintenance Base between Los Altos and the base over the routes described in Application No. 56776.
2. Applicant is already providing the service proposed in Application No. 56776.
3. Applicant transports employees between the maintenance base and the cities of Sunnyvale, Los Altos, Mountain View, and Palo Alto without the authority required by the Public Utilities Code.
4. Kohler (West Valley Charter Lines) is a protestant on Application No. 56754 wherein applicant seeks authority to transport workers between the maintenance base and Sunnyvale.
5. Kohler has authority to serve Sunnyvale and has lost half of her riders to applicant, who operates in the same area at lower fares.
6. Kohler has provided adequate service out of Sunnyvale; riders prefer applicant's service because the latter charges lower fares over routes that parallel protestant's.
7. There has been no showing that protestant's service is inadequate. Since a competent operator is already in the area applicant seeks to serve, Application No. 56754 should be denied.
8. Public convenience and necessity require that Application No. 56776 be granted as provided in the ordering paragraphs herein.
9. Applicant has the experience, equipment, personnel and financial resources to institute and maintain the proposed service.
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.

Conclusion

1. Applicant should be ordered to cease and desist from transporting passengers between the United Airlines Maintenance Base and

other points not presently certificated without first obtaining the required authority from this Commission.

2. Application No. 56776 should be granted.
3. Application No. 56754 should be denied.

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 George Righetti, dba Super Commuter Bus Company, authorizing him 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 F of Decision No. 85057 as amended herein. Appendix F of Decision No. 85057 is amended by incorporating First Revised Page 3 and First Revised Page 4, attached hereto, in revision of Original Page 3 and Original Page 4.
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 he accepts the certificate he 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 his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.
3. Application No. 56754 is denied.
 4. Applicant shall cease and desist from transporting passengers between the United Airlines Maintenance Base and other

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points not presently certificated without first obtaining the required authority from this Commission.

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

Dated at San Francisco, California, this 20th day of SEPTEMBER, 1977.

Robert Bateman

President

William J. Lyons

Vernon L. Stinson

Richard B. Havel

Clare J. DeLoach

Commissioners

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

The certificate hereinafter noted supersedes all operative authority heretofore granted to George Righetti to serve the United Airlines Maintenance Base at the San Francisco International Airport.

George Righetti, dba Super Commuter Bus Company, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation to transport passengers between the United Airlines Maintenance Base at the San Francisco International Airport, on the one hand, and the service area which includes the Cities of Los Altos,* Mountain View and Palo Alto on the other hand, to and from the points hereinafter described, subject, however, to the authority of this Commission to change or modify said points 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) Pickup and discharge of passengers will be limited to specific points hereinafter described in Section 2.
- (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.

Issued by California Public Utilities Commission.

*Added by Decision No. 87880, Application No. 56776.

Appendix F
(Dec. 85057)

George Righetti
dba
SUPER COMMUTER BUS COMPANY
(United Airlines Maintenance Base Service)

First Revised Page 4
Cancels
Original Page 4

SECTION 2. DESCRIPTION OF POINTS SERVED.

Service for specific pickup and discharge points shall be between the United Airlines Maintenance Base and the following points:

Calderon Ave. & Church St., Mountain View
Rengstorff Ave. & Alma Street, Mountain View
Alma Street & Charleston Road, Palo Alto
Middlefield Road & Mayview, Palo Alto
Colorado Ave. & Middle Field Road, Palo Alto
Greer Road & Oregon Express Way, Palo Alto
Hillview & San Antonio Rd., Los Altos*
California St. & San Antonio Rd., Mountain View*
Middlefield Road & Loma Verde Ave., Palo Alto*

Issued by California Public Utilities Commission.

*Added by Decision 87830, Application 56776.