

Decision No. 88131 NOV 22 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Wilde and Wilde, Inc., for a certificate of public convenience and necessity to operate a dial-a-ride transportation service for passengers, property, and packages between Nees and Fowler Avenues on the north and east and Brawley and Central Avenues on the west and south in the Fresno-Clovis Metropolitan Area.

Application No. 56431  
(Filed April 26, 1976)

In the Matter of the application of Rangel, Rangel, and Rangel, Inc., (dba American Cab Company) for a certificate of public convenience to operate a dial-a-ride transportation service for passengers, property and packages between Nees and Fowler Avenues on the north and east and Brawley and Central Avenues on the West and South in the Fresno-Clovis Area.

Application No. 56815  
(Filed October 18, 1976)

Edward Wilde, for Wilde and Wilde, Inc.; and  
Cassandra Dunn, Attorney at Law, for  
American Cab; applicants.  
Barton J. Gilbert, for City of Fresno, Department of Transportation, interested party.  
Ora A. Phillips and Autar S. Chhina, for the  
Commission staff.

O P I N I O N

A duly noticed public hearing was held in these applications January 20, 1977 before Administrative Law Judge Main at

Fresno. The matters were submitted subject to the filing of the transcript which occurred March 2, 1977.

In Application No. 56431 Wilde and Wilde, Inc. (Wilde), a California corporation, requests a certificate of public convenience and necessity authorizing it to operate as a passenger stage providing dial-a-ride (DAR) transportation service in the Fresno-Clovis metropolitan area.

In Application No. 56815 Rangel, Rangel, and Rangel, Inc. (Rangel), a California corporation, requests a certificate of public convenience and necessity authorizing it to operate as a passenger stage providing DAR transportation service in the Fresno-Clovis metropolitan area.

Findings

The following undisputed facts are established by the record and we find them to be such:

1. Wilde, dba Yellow Cab Company, Black and White Cab Company, Checker Cab Company, Archie's Blue Top Cab Company, and United Radio Cab Company, operates a taxicab system in the Fresno-Clovis metropolitan area.

2. Rangel, dba American Cab Company, also operates a taxicab system in the Fresno-Clovis metropolitan area.

3. The city of Fresno regulates the taxicab industry within its city limits. The county of Fresno has not asserted jurisdiction over taxicab business outside the Fresno city limits.<sup>1/</sup>

4. Each of the two applicants proposes for the Fresno-Clovis metropolitan area a demand responsive, door-to-door transportation service known as DAR. The proposed service is not limited to the handicapped and the elderly.

5. In the DAR mode of operation, a vehicle is dispatched directly to the location of the caller and then delivers him to his exact destination within the operation's service territory.

6. In the DAR mode each passenger pays a separate fare and several passengers with different origins and destinations may travel together for portions of their journeys.

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1/ Transcript, pages 30 & 31:

"Q How about the matter of regular taxicab operations outside the city limits of Fresno? How do you cope with that situation?

"A Well, as Mr. Wilde explained earlier, the city does regulate the cabs as far as the City of Fresno.

"Now as he pointed out, the county has not seen fit, quite frankly -- the only metropolitan -- within the metropolitan area, the city, of course, is the largest hunk, and the county has been very apprehensive about getting into certain areas that are within the sphere of influence of the City of Fresno.

"Informally, at least, the county will tell you that if the city is regulating a particular situation as the city does with cabs, unless it's either lucrative from a revenue stand, from their standpoint, it becomes a very serious problem to the health, safety and welfare of the community, they have not been too anxious to intervene.

"In other words, quite frankly, they feel that the city has done a fairly good job in regulating the taxi industry, and that pretty well lays over the metropolitan area as far as the county. - - -"

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7. The other taxicab operations which might be affected by the proposed DAR transportation service are those of: Fresno Independent Cab Company; City Cab Company; Time Cab Company; Norm's Cab Company (Clovis); Valley Cab Company; and Day and Night Cab Company.

8. To qualify for funding under the Mills-Alquist-Deddeh Act as amended, one of the prerequisites is to hold a certificate of public convenience and necessity for a passenger stage operation issued by this Commission.

9. By Decisions Nos. 85993 and 85878 in Applications Nos. 56367 and 56235 certificates were issued to Volunteer Bureau of Sonoma County and Willis & Willis, a partnership, dba Yellow Cab Company in Marysville and Yuba City, to provide DAR service for the handicapped and the elderly.

10. By Decision No. 83456 in Application No. 54871 a certificate of public convenience and necessity was issued on an ex parte basis authorizing DAR transportation service within a portion of the San Fernando Valley. That authority was revoked by Decision No. 87482 dated June 21, 1977.

Discussion

The applications before us raise the issues typical of a certificate proceeding such as the public need, the fitness of applicants including financial ability, and the like. More importantly, however, and notwithstanding Findings 9 and 10 above, the pivotal issue in this case is whether the DAR mode as proposed herein can properly be construed to fit passenger stage operations.

DAR as proposed by the parties in these two applications appears to be that of a taxicab operation. Its major competitive thrust is at the taxicab business. Applicant Wilde proposes to use its revenue equipment interchangeably for taxicab and DAR service. The same drivers will be used and the trips will be dispatched from the same switchboard. The City of Fresno regulates the taxicab operations within the city limits and, for all practical purposes, in the county territory surrounding the city as well, since no taxi company could operate successfully in the county territory if the central city territory were forbidden to it. About the only difference between DAR and the usual taxicab service is the fact that two or more passengers may share the same vehicle and each pay their own fare. Even this difference is not present in all cases, i.e., "Ride Sharing" is permitted in taxicabs in some jurisdictions.

No protest to the proposed service was rendered by the City of Fresno who is the operator of the local transit system.

The Commission historically has not regulated taxicabs. Our policy was affirmed by the California Supreme Court (in re Martinez, 22 Cal 2<sup>d</sup> 259) as taxicabs were not among these types of carriers the legislature had conferred jurisdiction to the Commission to regulate.

We hold that the proposed operations are taxicab operations and thus not passenger stage operations under the jurisdiction of this Commission.

In so holding, it is certainly not our intention to discourage innovative transportation services. In our view, such services deserve a chance to have their feasibility tested and to show what contribution they can make to improving public transportation. Had the proposed DAR services constituted a passenger stage operation within our jurisdiction we would consider it appropriate to at least issue a temporary certificate authorizing the services on a trial basis.

Because of the close relationship to taxicab service, it would appear sensible to regulate both services at the same local governmental level, thereby promoting consistency and avoiding a duplicative layer of regulation.

Ultimate Finding

The proposed DAR service is taxicab service. Accordingly, the proposed service is not within the Commission's jurisdiction.

Based on the foregoing finding the certificates sought are not required and the applications should therefore be denied.

O R D E R

IT IS ORDERED that Application No. 56431 of Wilde and Wilde, Inc., and Application No. 56815 of Rangel, Rangel, and Rangel, Inc., are denied.

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

Dated at San Francisco, California this 22nd day of NOVEMBER, 1977.

Robert Batminal  
President  
William Squares  
Vernon L. Sturgeon  
Richard P. Hawks  
Clare T. Deibel  
Commissioners