

ORIGINAL

Decision No. 88206 DEC 6 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of George D. McAfee, dba
Consolidated Services, for
authority to operate as a passenger
stage corporation in a home-to-
work service between points in
San Diego County and the Southern
California Edison Company's
Nuclear Generating Station in
San Onofre.

Application No. 57113
(Filed February 25, 1977;
amended April 5, 1977)

In the Matter of the Application
of GOODALL'S CHARTER BUS SERVICE,
INC., a corporation, for a
certificate of public convenience
and necessity to operate
passenger stage service between the
Southern California Edison Nuclear
Generating Station at San Onofre,
California, on the one hand, and
various points in San Diego County,
California, on the other hand.

Application No. 57171
(Filed March 24, 1977;
amended July 15, 1977)

John E. deBrauwere, Attorney at Law,
for applicant in Application
No. 57113.

James H. Lyons, Attorney at Law, for
applicant in Application No. 57171,
and protestant in Application
No. 57113.

Barbara Weiss and Thomas P. Hunt, for
the Commission staff.

O P I N I O N

These are applications of George D. McAfee (McAfee) and
Goodall's Charter Bus Service, Inc. (Goodall's) for certificates
of public convenience and necessity to operate as passenger stage

corporations in home-to-work service between various points in San Diego County, on the one hand, and the nuclear-powered electric generating station at San Onofre in northern San Diego County, on the other hand.

Public hearings were held at San Clemente before Administrative Law Judge Norman Haley on July 25 and 26, 1977. Altogether, 17 witness testified and 17 exhibits were received (18 numbered). The amendment to A.57113 filed April 5, 1977 was withdrawn. The matters were submitted with the filing of letter briefs on August 12.

McAfee is employed at San Onofre as an electrician. Goodall's is a long-established charter-party carrier holding permit TCP 111-A. Both McAfee and Goodall's have been transporting construction workers and other workers in buses to and from the San Onofre power station over regular routes at individual fares without authority to operate as passenger stage corporations. McAfee commenced service about February 1976. Goodall's commenced service on October 18, 1976. Some of Goodall's routes and points are essentially the same as those served by McAfee. However, there are significant differences between certain of the routes and points served by the two operators. Overall, the services of the two applicants are substantially competitive.

Bechtel Power Corporation (Bechtel) is constructing nuclear power generating units Nos. 2 and 3 at San Onofre. It currently employs about 3,500 workers at San Onofre, of which 2,700 are on the day shift. The hiring of additional workers is still in progress. In addition to Bechtel's workers there are employees of Southern California Edison Company and San Diego Gas & Electric Company. There are only a limited number of parking spaces available for private automobiles and those spaces are located about a 10-minute walk from the excavation site where a large number of Bechtel's employees report for work. Both

McAfee and Goodall's have the plant authority and the additional insurance required to pick up and deliver passengers directly at the excavation site. They charge substantially the same fares. There are no feasible public transportation services available between San Onofre and the various other San Diego County points where the workers are picked up and delivered, except those provided by the applicants. Without applicants' services the workers would be required to use their private automobiles, including car pools.

McAfee's Presentation

McAfee and three of his four drivers testified.^{1/} The drivers, one of which is a relief driver, are employees at the power station site. McAfee commenced service by driving one route. Business increased and currently three routes are operated. For a number of months he was unaware that a certificate was required. Four routes are described in Appendix A to the application. McAfee stated that all four routes will be operated if the sought authority is granted. McAfee is carrying from 100 to 120 passengers per day. The one-way distances between San Onofre and designated route stops range from 30 to 75 miles. McAfee has five buses, four of which are operating.^{2/} According to the drivers the buses appear to be maintained properly. Exceptions have been some cracked windows. Some mechanical difficulties admittedly were experienced in 1976. Drivers clean the buses during the week. They are cleaned on weekends by McAfee. Buses are stored on weekends at McAfee's rented yard in Santee. Servicing, washing, and mechanical work is done either at McAfee's yard or at the

1/ Drivers are trained by McAfee's father who is a trainer of bus and truck drivers. Six former drivers trained at McAfee's now drive for Goodall's.

2/ Exhibit 8 is an agreement dated June 14, 1977 whereby McAfee has agreed to purchase four buses from Gray Line Tours Company for a gross total sum of \$46,800.

facilities of Aztec Bus Lines. McAfee does the mechanical work himself with the assistance of Aztec Bus Lines which charges for work performed. Repairs required during the week are performed by McAfee at night. On occasion he has furnished a substitute bus from another carrier.

McAfee's bus drivers are paid \$80 to \$100 a week depending on the route operated. The drivers take their pay out of the money collected from the passengers before they pay over money to McAfee. At first McAfee believed that the drivers were independent contractors. None of the drivers have workers' compensation insurance. Nothing is withheld for taxes. However, McAfee is prepared to pay the insurance and make the necessary payroll deductions. Proposed fares range from \$20 to \$25 a week. After Goodall's commenced service in October 1976 the two carriers engaged in some competitive rate reductions; however, the reduced rates generally have been increased to their former levels.

Prior to the time Goodall's commenced service from the power station, two of McAfee's drivers assertedly went to Goodall's to buy or lease buses to operate their own routes. It was asserted that upon learning what the insurance would cost they arranged to drive for Goodall's. The routes Goodall's commenced to serve largely duplicated McAfee's routes. Goodall's purportedly picked up some of McAfee's riders with promises of superior service. McAfee lost riders and revenue to Goodall's to the extent he was required to reduce some service and rates, at least temporarily.

McAfee's current assets are about \$35,000. Exhibit 5 shows total income for the first seven months of 1977 was \$40,258. Average monthly income was \$5,751. Average monthly expenses were somewhat higher. However, they included unusual expenses attributable to bus purchases and payment of 75 percent of yearly

insurance premiums. With normal expenses (Exhibit 6) the results of seven months operations would have been profitable. In addition to the bus business McAfee assertedly earns \$30,000 a year as an electrician. Attached to McAfee's letter brief is an estimated annual income statement. It shows projected operating income of \$141,680, operating expenses of \$110,748, and a net income of \$20,632 after income taxes.

Goodall's Presentation

Evidence on behalf of Goodall's was presented by six of its riders, four drivers, a representative from Bechtel, a union representative, and the president of Goodall's. The drivers and riders are currently employed at the power station site. The driver witnesses formerly drove or rode on McAfee's buses.

Goodall's driver and rider witnesses related circumstances and conditions surrounding McAfee's operations prior to the time they went with Goodall's. According to their testimony Goodall's service and equipment is superior to that provided by McAfee when they were driving or riding with him. Assertedly, there were instances of late and missed schedules, mechanical failures (including tire and brake failures), unscheduled fuel stops, uncompleted maintenance, diesel fumes, unclean buses, broken windows, and an instance of an engine that would not stop which required calling the fire department. Goodall's driver and rider witnesses stated that they are well satisfied with Goodall's services, that it has been dependable and never late, and that if the application is granted, they will continue to drive for and ride with Goodall's.

The representatives from Bechtel and the union emphasized the shortage of parking facilities and the need for public transportation to handle the increasing numbers of employees at the construction site.

Goodall's president testified that on October 15, 1976 two of McAfee's drivers came to speak to him about bus operations to and from the power station site. Assertedly, the drivers related that there was an acute need for better equipment and service. Based on those representations, he commenced service three days later. The president did not plead ignorance of the fact that a certificate of public convenience and necessity was required. Goodall's San Onofre drivers are now covered by workers' compensation insurance. No provisions have been made for withholding taxes. However, drivers have completed W-4 forms and the company is making provisions for withholding taxes.

Goodall's seeks authority to operate seven routes (Exhibit 9). As explained above, some of the routes are primarily the same as corresponding routes operated by McAfee. Others are substantially different. Two are express routes with no intermediate stops, whereas McAfee makes stops. One-way distances between the points sought to be served are from 40 to 70 miles. Goodall's has 61 units of equipment. Eight are assigned daily to San Onofre transportation. In addition five spare buses and 16 vans are available. Rates formerly reduced to meet competition have been increased to their previous level. Proposed weekly rates range from \$15 to \$25. Corresponding daily rates range from \$3 to \$5. A rule is proposed that a route will be run for a minimum of 20 passengers.

Goodall's balance sheet as of December 31, 1976 shows total assets of \$899,982 with stockholders equity of \$267,076. The profit and loss statement for the period January 1, 1976 to December 31, 1976 shows net income before taxes of \$113,069. Projected results of operation for the proposed San Onofre operation for the period from September 1, 1977 to August 31, 1978 show total operating revenues of \$221,130, total operating expenses of \$185,439, and operating income of \$35,691. Anticipated net

income after taxes for the future year is \$24,449. The president was of the opinion that Goodall's could make a profit on its proposed San Onofre operation even if McAfee continues to operate.

Discussion

There clearly is a need for public transportation between the San Onofre power station, on the one hand, and points in San Diego County near the homes of workers, on the other hand. No feasible public transportation now exists other than the services applicants have been performing. Both applicants now have the experience, equipment, insurance, and financial ability to conduct the proposed services. McAfee pioneered the service and obtained authority to go directly to the plant excavation site to meet the needs of the construction workers. Prior to the time Goodall's commenced service McAfee experienced some service and equipment deficiencies. Some of the equipment deficiencies were serious. However, McAfee is in the process of purchasing additional buses. Goodall's is the stronger, more experienced bus operator. The services of the two operators are not entirely duplicative. In any event, the record demonstrates that both applicants are operating successfully from a financial standpoint. We conclude there is need for the services of both applicants.

Findings

1. Applicants, McAfee and Goodall's, propose to provide scheduled home-to-work common carrier bus service for transportation of passengers between the San Onofre power station site and various other points in San Diego County.
2. Applicants have the ability and experience and possess the equipment, insurance, and financial resources necessary to perform the proposed services.
3. Applicants' proposed services would be profitable.
4. The fares proposed by McAfee in Exhibit C to original A.57113 are justified.

5. The fares proposed by Goodall's in Exhibit 12 relative to A.57171 are justified.

6. There are no other passenger stage corporations that provide substantially the same service or which would compete directly with applicants between the points in issue.

7. Public convenience and necessity require that applicants be authorized to provide scheduled common carrier bus services between the San Onofre power station site and other points in San Diego County, as specifically set forth in Appendices A and B hereto.

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

George D. McAfee, dba Consolidated Services, and Goodall's Charter Bus Service, Inc., are 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 holders 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 D. McAfee, dba Consolidated Services, 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 A of this decision.

2. A certificate of public convenience and necessity is granted to Goodall's Charter Bus Service, 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 B of this decision.

3. In providing service pursuant to the authority granted by this order, applicants 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, applicants shall file written acceptances of the certificates granted. Applicants are placed on notice that if they accept the certificates they 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, applicants 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) Applicants shall maintain their 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, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

Since the employees at the San Onofre station are presently in need of this transportation, the effective date of this order is the date hereof.

Dated at San Francisco, California, this 6th day of DECEMBER, 1977.

I dissent:
William Squires, Jr.

Robert B. Knaus
President

Virginia L. Sturgeon
Richard W. Howell
Walter T. Sedrick
Commissioners

es/ai

Appendix A

GEORGE D. MCAFEE
dba Consolidated Services

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC 1027
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. 88206,
dated DEC 6 1977, of the Public Utilities
Commission of the State of California, in Application No. 57113.

es/ai

Appendix A

GEORGE D. MCAFEE
dba Consolidated Services

Original Page 2

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

George D. McAfee, an individual doing business as Consolidated Services, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation for commuter operations between the San Onofre power station site in San Diego County, on the one hand, and other points in San Diego County, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at the San Onofre power station site 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 power station site.
- (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.

SECTION 2. ROUTE DESCRIPTIONS.

ROUTE 1:

Beginning at the intersection of State Highway 67 and Interstate 8 in the city of El Cajon where passengers are boarded; southwesterly along State Highway 94 to College Avenue in the city of San Diego where passengers are boarded; northerly along Interstate 805 to Clairemont Mesa Boulevard near the Miramar Naval Air Station where passengers are boarded; continuing along Interstate 805 and Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 2:

Beginning at the intersection of "E" Street and Interstate 5 in the city of Chula Vista where passengers are boarded; northerly along Interstate 5 to Mission Bay Drive in the community of Pacific Beach where passengers are boarded; northerly along Interstate 5 to Santa Fe Avenue in the community of Leucadia where passengers are boarded; northerly along Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 3:

Beginning at the intersection of Poway Road and Pomerado Road in the community of Poway where passengers are boarded; westerly along Poway Road and Interstate 15 to Carmel Mountain Road in the community of Rancho Penasquitos where passengers are boarded; along Interstate 15 and State Route 78 to Rancho Santa Fe Road in the city of San Marcos where passengers are boarded; along State Route 78 and Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

es/ai

Appendix A

GEORGE D. MCAFEE
dba Consolidated Services

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SECTION 2. ROUTE DESCRIPTIONS. (Continued)

ROUTE 4:

Beginning at the intersection of Escondido Boulevard and Washington Avenue in the city of Escondido where passengers are boarded; westerly along State Route 78 to the intersection of Emerald Drive and State Route 78 in the city of Vista where passengers are boarded; along State Route 78 and Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

es/ai

Appendix B

GOODALL'S CHARTER BUS
SERVICE, INC.

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC 1028
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. 88206,
dated DEC 6 1977, of the Public Utilities
Commission of the State of California, in Application No. 57171.

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

Goodall's Charter Bus Service, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized as a passenger stage corporation for commuter operations between the San Onofre power station site in San Diego County, on the one hand, and other points in San Diego County, on the other hand, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at the San Onofre power station site 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 power station site.
- (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.

SECTION 2. ROUTE DESCRIPTIONS.

ROUTE 1 - Parkway Plaza - El Cajon - Express

Beginning at Interstate 8 and State Highway 67 in the city of El Cajon where passengers are boarded; westerly on Interstate 8 to Interstate 805; north on Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 2 - College Grove Route - Express

Beginning at State Highway 94 and College Avenue in the city of San Diego where passengers are boarded; west to Interstate 805; north to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 3 - Chula Vista - San Diego

Beginning at Bonita Road and Interstate 805 in the city of Chula Vista where passengers are boarded; westerly to Interstate 5; north to H Street off ramp in the city of Chula Vista where passengers are boarded; north on Interstate 5 to Clairemont Drive in the city of San Diego where passengers are boarded at the Mission Bay Information Center; north on Interstate 5 to Santa Fe Avenue in the community of Encinitas where passengers are boarded; north to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

SECTION 2. ROUTE DESCRIPTIONS. (Continued)

ROUTE 4 - San Diego

Beginning at Interstate 805 and El Cajon Boulevard in the city of San Diego where passengers are boarded; north on Interstate 805 to Balboa Avenue and Convoy Street in the city of San Diego where passengers are boarded; north on Interstate 805 to Governor Drive off ramp where passengers are boarded; north to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 5 - Mira Mesa (San Diego) - Oceanside

Beginning at Mira Mesa Boulevard and Westonhill Drive in the city of San Diego where passengers are boarded; south on Westonhill Drive to Miramar Road; west on Miramar Road to Interstate 805 where passengers are boarded; north on Interstate 805 to Oceanside Boulevard off ramp where passengers are boarded; north on Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

ROUTE 6 - Escondido - Vista

Beginning at Escondido Boulevard and Washington in the city of Escondido where passengers are boarded; west on State Highway 78 to Emerald Drive in the city of Vista where passengers are boarded; west on State Highway 78 to Interstate 5; north to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.

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Appendix B

GOODALL'S CHARTER BUS
SERVICE, INC.

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SECTION 2. ROUTE DESCRIPTIONS. (Continued)

ROUTE 7 - Poway - Penasquitos - San Marcos

Beginning at Poway Road and Garden Drive in the community of Poway where passengers are boarded; west on Poway Road to Pomerado Road also in Poway where passengers are boarded; westerly on Poway Road to Interstate 15; north on Interstate 15 to Carmel Mountain Road off ramp in the community of Rancho Penasquitos where passengers are boarded; north on Interstate 15 to State Highway 78; westerly on State Highway 78 to Santa Fe Road in the city of San Marcos where passengers are boarded; westerly on State Highway 78 to Interstate 5; north on Interstate 5 to the San Onofre power station site where passengers are discharged, and return via the reverse of the above route.