

Decision No. 88355 JAN 17 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
TRAVEL ALL TRANSPORTATION, INC., A
CALIFORNIA CORPORATION, to transfer
a certificate of public convenience
and necessity to RAMON J. WHITE dba
LIMOUSINE, CHAUFFEUR AND GUIDE.

Application No. 56831
(Filed October 22, 1976;
amended December 2, 1976)

In the Matter of the Application of
DANIEL F. STUART, doing business as
FLEETWOOD LIMOUSINE SERVICE, for
certificate of public convenience
and necessity to operate a Passenger
Stage (passenger and baggage) Service
between the San Diego International
Airport - Lindbergh Field, San Diego,
California, and the following
communities located in San Diego
County, California: Rancho Santa Fe;
Rancho Bernardo (including Rancho
Bernardo Inn); Miramar.

Application No. 56894
(Filed November 4, 1976)

DANIEL F. STUART,

Complainant,

RAMON J. WHITE,

Defendant.

Case No. 10251
(Filed February 4, 1977)

James Schwartz, Attorney at Law, for

applicant in A.56831; defendant
in C.10251.

Virant & deBrauwere, by John E. deBrauwere,
Attorney at Law, for applicant in

A.56894; complainant in C.10251.

Thomas P. Hunt, for the Commission staff.

O P I N I O N N A L 22388

By D.80651 (1972) Travel All Transportation, Inc. (Travel All) was authorized to transport passengers and baggage (on call) as a passenger stage corporation between Rancho La Costa, Rancho Bernardo, Hotel Circle, and San Diego International Airport (Lindbergh Field). Travel All's president, Maurice E. Beauregard, sold the operation to Ramon J. White (White) on or about July 1976 because

Mr. Beauregard was unable to continue in business due to ill health. Since that time White has operated the business purchased from Mr. Beauregard without Commission authority. By A.56831 Travel All seeks to transfer the certificate to White, dba Limousine, Chauffeur and Guide.

By D.86120 (1976) Daniel F. Stuart, dba Fleetwood Limousine Service (Stuart), was authorized to transport passengers and baggage (on call) as a passenger stage corporation between Escondido, Vista, Fallbrook, San Marcos, Lake San Marcos, Penasquitos, Poway, and Lindbergh Field.

By A.56894 Stuart seeks to add the points of Rancho Santa Fe, Rancho Bernardo, and Miramar.

Public hearing was held on a consolidated record before Administrative Law Judge Norman Haley at Vista on July 14, 1977. The complaint in C.10251 was withdrawn at the hearing. The matters were submitted on August 3, 1977 with receipt of transcript.

Stuart and White do not oppose each other's application, with the exception of proposed service from and to points within the community of Rancho Bernardo.^{1/}

^{1/} Rancho Bernardo is a large community within the city of San Diego. It is located south of the city of Escondido and north of the communities of Poway and Rancho Penasquitos.

No other party opposes the applications. There are no other passenger stage corporations in the area that provide services similar to those sought by the two applicants.

Appendix A to D.80651 is the certificate of public convenience and necessity Travel All seeks to transfer to White. Original Page 2, paragraph (d) of Appendix A reads:

"(d) Service shall be limited to passengers originating at or destined to San Diego Airport from or to Rancho La Costa, Rancho Bernardo and Hotel Circle. Passengers may not board or be discharged at any intermediate points."

Stuart contends that the existing Travel All certificate, with respect to Rancho Bernardo is limited to transportation from and to the Rancho Bernardo Inn (Inn) by the route description on Original Page 3 of Appendix A of D.80651, which reads:

"Route B - Rancho Bernardo Inn"
Commencing at Rancho Bernardo Inn on Bernardo Oaks Drive, thence west to Rancho Bernardo Road, thence west on Rancho Bernardo Road to Interstate 15 (former Highway 395) thence south to Interstate Highway 8, thence in a westerly direction to Interstate Highway 5, turning south to Sassafras Street off-ramp to Laurel Street and proceeding west thereon to Harbor Drive, thence northwest on Harbor Drive to San Diego Airport. Returning by the same route."

D.80651 authorized Travel All to serve the community of Rancho Bernardo by providing transportation to and from the Inn. Both Stuart and White now desire to provide on-call transportation directly to and from residences and other

places located throughout the community. Stuart is willing to omit service to and from the Inn because it is served by White. Stuart opposes White's proposed expanded service to and from other points within Rancho Bernardo.

Interstate 15 runs in a north-south direction, passing through Rancho Bernardo dividing the community approximately one-fourth to the west and three-fourths to the east of Interstate 15 (Exhibit 5). White utilizes Interstate 15 in performing service to and from the Inn. Stuart utilizes Interstate 15 in performing service to and from Escondido and the other authorized points in north San Diego County. He travels through Rancho Bernardo in connection with service to and from Poway along Pomerado Road. It would take Stuart only a few extra minutes to make a pickup or delivery within Rancho Bernardo. Both applicants, therefore, have equipment readily available to pick up and deliver passengers and their baggage directly at residences within the community of Rancho Bernardo.

The record shows that both Stuart and White have the ability, financial resources, and equipment to provide the proposed additional services they respectively request. There clearly is need for the additional public transportation services applicants seek to provide. As the result of the energy shortage public passenger transportation should be authorized, wherever justified, to encourage people to use those facilities in lieu of private automobiles.

With respect to Rancho Bernardo, public transportation from and to individual residences would be more convenient to a number of the residents and visitors than transportation which arrives at and departs from the Inn. Transportation by automobiles, taxicabs, or limousines between residences and the Inn would be obviated.

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- 2/ There are no public parking facilities at the Inn. The parking area is reserved for guests and residents of the Inn.

Furthermore, applicants' proposed services directly from individual residences probably would encourage additional people to use public transportation instead of private automobiles all the way to the airport.

The issues relative to Rancho Bernardo involve more than the individual desires of the carrier applicants for additional operating authorities. Public convenience and necessity relative to the needs of people desiring transportation to and from Lindbergh Field is paramount. Exhibit 1 (Stuart's petition from Rancho Bernardo residents) and the testimony relating to it, demonstrate that there are many residents desiring transportation directly between private residences and the airport. Since both applicants now have equipment going to and from Rancho Bernardo we feel that the services of both applicants are justified. These passenger stage certificates should not be encumbered with restrictions unless they are clearly necessary and justified. The Inn is surrounded by the community. It would not be in the public interest to prevent either applicant from providing service to all points in the community, including the Inn. Airport passengers seeking ground transportation could be substantially inconvenienced if one of the carriers had equipment available but was required to load or unload passengers and baggage in Rancho Bernardo at a location different from actual origin or ultimate destination.

There is a further reason for granting both applicants authority to serve all points in Rancho Bernardo. Both the community and Lindbergh Field are in the city of San Diego. The record discloses that there are one or more entities performing transportation between those points as

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exempt carriers under Section 226 of the Public Utilities Code, because 98 percent or more of total route mileage operated is exclusively within the limits of the city. A lesser regulated passenger stage corporation serving Rancho Bernardo should not be restricted as to precise points to be served while exempt carriers are able to provide service at will to and from all points within the community. Under the circumstances presented here, we will authorize both applicants to serve the community of Rancho Bernardo which includes the Inn.^{3/}

Findings

1. Applicants each have the ability, financial resources, and equipment to provide the services they respectively propose.
2. There are no other passenger stage corporations that provide substantially the same services as applicants between the points in issue.
3. The fares proposed by each applicant are reasonable.
4. It would not be in the public interest to authorize either applicant to serve Rancho Bernardo with restrictions as to the locations within the community each could serve.
5. Public convenience and necessity require the proposed services, including services to and from Rancho Bernardo by both applicants.
6. Authorization to serve Rancho Bernardo by both applicants should be to and from the area substantially as depicted on White's Exhibit 5.
7. It can be seen with certainty that there is no possibility that the activities in question may have a significant effect on the environment.
8. The transfer of the passenger stage authority from Travel All to White would not be adverse to the public interest.

^{3/} The community of Rancho Bernardo, which we will authorize both applicants to serve, includes unincorporated county area east of the city limits of San Diego.

Conclusions

A.56831 and A.56894 should be granted to the extent and subject to the conditions provided in the order which follows. C.10251 should be dismissed.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Travel All and the issuance of a certificate in an appendix form to White.

Daniel F. Stuart, dba Fleetwood Limousine Service, and Ramon J. White, dba Limousine, Chauffeur and Guide, 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 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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience is granted to Daniel F. Stuart, dba Fleetwood Limousine Service, authorizing him to extend operations as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between Rancho Santa Fe, Miramar, and Rancho Bernardo Service Territory, on the one hand, and San Diego International Airport, on the other hand.

2. Appendix A of Decision No. 86120 is amended by incorporating First Revised Page 1 and Original Page 2, attached hereto, in revision of Original Page 1.

3. On or before May 1, 1978 Travel All Transportation, Inc., a corporation, may sell and transfer the operative rights referred to in the application to Ramon J. White, dba Limousine, Chauffeur and Guide.

4. Within thirty days after the transfer, White shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

5. In the event the transfer authorized in paragraph 3 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 8(c), a certificate of public convenience and necessity is granted to Ramon J. White, dba Limousine, Chauffeur and Guide, 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 B, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by Decision No. 80651 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 8(c).

7. A certificate of public convenience and necessity is granted to Ramon J. White, dba Limousine, Chauffeur and Guide, authorizing him to extend operations as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between Rancho Bernardo Service Territory and San Diego International Airport over the routes set forth in Appendix B, as attached.

8. 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.

9. Case No. 10251 is dismissed.

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

Dated at San Francisco, California, this 17th day of JANUARY, 1978.

William J. Agnew Jr. President
George L. Ferguson
Robert D. Batinovich
Clair D. Smith Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

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

Daniel F. Stuart, doing business as Fleetwood Limousine Service, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation to transport passengers and their baggage between San Diego International Airport - Lindbergh Field, in San Diego, on the one hand, and the communities of Escondido, Vista, Fallbrook, San Marcos, Lake San Marcos, Penasquitos, Poway, *Rancho Santa Fe, *Miramar, and *Rancho Bernardo Service Territory, located in the County of San Diego, on the other hand, over and along the most appropriate highways, roads, and streets, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provision:

Service shall be operated on an "on-call" basis. The term "on-call", as used herein, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized "on-call" service will be rendered.

*SECTION 2. RANCHO BERNARDO SERVICE TERRITORY

Beginning at the intersection of Black Mountain Road and the city limits of San Diego, southwesterly along said city limits to a point due west of the intersection of Stone Canyon Road and Pomerado Road, southerly along Pomerado Road to Russ Lane, easterly along a direct line to the intersection of Espola Road and Stone Canyon Road, northerly and westerly along Espola Road to Old Coach Road, northeasterly along Old Coach Road to a point due east of the intersection of Andrews Drive and Del Paso Drive, thence northwesterly along a direct line to the intersection of Highland Valley Road and the San Diego Aqueduct, thence due west to the city limits of San Diego, southerly along said city limits to point of beginning.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

*Added by Decision No. 88355, Application No. 56894.

Ramon J. White
doing business as
LIMOUSINE, CHAUFFEUR AND GUIDE

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION

PSC-917

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. 88355
dated JANUARY 17th, 1978, of the Public Utilities
Commission of the State of California, on Application No. 56831.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

The certificate hereinafter noted supersedes all operative authority heretofore granted to Travel All Transportation, Inc., a corporation, or its predecessors.

Ramon J. White, doing business as Limousine, Chauffeur and Guide, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation for the transportation of passengers and their baggage over the routes hereinafter described and subject to the following provisions and restrictions:

- (a) Motor vehicles may be turned at termini, in either direction, at intersections of street, 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 operations in either direction unless otherwise indicated.
- (c) The proposed service shall be operated on an "On Call" basis in accordance with a plan filed in its tariff which shall be authorized by the Commission.
- (d) Service shall be limited to passengers originating at or destined to San Diego Airport from or to La Costa, Rancho Bernardo Service Territory and Hotel Circle. Passengers may not board or be discharged at any intermediate points.

Issued by California Public Utilities Commission.

Decision No. 88355, Application No. 56831.

SECTION 2. RANCHO BERNARDO SERVICE TERRITORY

Beginning at the intersection of Black Mountain Road and the city limits of San Diego, southwesterly along said city limits to a point due west of the intersection of Stone Canyon Road and Pomerado Road, southerly along Pomerado Road to Russ Lane, easterly along a direct line to the intersection of Espola Road and Stone Canyon Road, northerly and westerly along Espola Road to Old Coach Road, northeasterly along Old Coach Road to a point due east of the intersection of Andrews Drive and Del Paso Drive, thence northwesterly along a direct line to the intersection of Highland Valley Road and the San Diego Aqueduct, thence due west to the city limits of San Diego, southerly along said city limits to point of beginning.

LIMOUSINE, CHAUFFEUR AND GUIDE

SECTION 3. ROUTE DESCRIPTIONS

Subject to the authority of this Commission to change or modify such at any time, Ramon J. White, dba Limousine, Chauffeur and Guide, conduct passenger stage operations over and along the following described streets and highways:

Route A - La Costa

Commencing at Hotel La Costa on Costa Del Mar Road, west on Costa Del Mar Road to El Camino Real, south on El Camino Real to La Costa Avenue, west on La Costa Avenue to Interstate Highway No. 5 turning south thereon to Sassafras Street off-ramp to Laurel Street, proceeding west on Laurel Street to Harbor Drive, northwest on Harbor Drive to San Diego Airport. Returning by the same route.

Route B - Rancho Bernardo Service Territory

Commencing at Rancho Bernardo Service Territory, thence west to Rancho Bernardo Road, west on Rancho Bernardo Road to Interstate 15, south to Interstate Highway 8, thence in a westerly direction to Interstate Highway 5, turning south to Sassafras Street off-ramp to Laurel Street and proceeding west thereon to Harbor Drive, thence northwest on Harbor Drive to San Diego Airport. Returning by the same route.

Route C - Town and Country Hotel

Commencing at Town and Country Hotel on Hotel Circle, west to on-ramp to Interstate Highway 8, west to Interstate Highway 5 and south to Sassafras Street off-ramp to Laurel Street, proceeding west thereon to Harbor Drive and proceeding northwest thereon to San Diego Airport. Returning by the same route.

(END OF APPENDIX B)