

ORIGINAL

Decision No. 89638 NOV 9 1976

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Patrick Deering, doing business )  
as "Contra Costa Connection", for )  
Certificate of Public Convenience )  
and Necessity to operate as a )  
passenger stage corporation for )  
transportation of passengers and )  
their baggage between Concord, )  
Walnut Creek, Orinda and the San )  
Francisco International Airport. )

Application No. 57452  
(Filed July 15, 1977)

- G. Patrick Deering, for himself, applicant.
- James M. Anderson, for Bay Area Limousine Service; Horace G. Campbell and Brian Keith Willson, for Airport Limousine Service of Sunnyvale, Inc.; Delmar Jones, for Holiday Limousine Service; Clifford S. Orloff, for Public Services Planning and Analysis Corporation (dba Airport Connection); Michael D. Parrish, for Chauffeur's Union Local 1265; protestants.
- Clifford E. Nelson, for himself; Christine E. Gondak and James Brasil, Attorneys at Law, for City and County of San Francisco; interested parties.
- R. O. Collins, for the Commission staff.

O P I N I O N

Applicant Patrick Deering seeks a certificate of public convenience and necessity to operate as a passenger stage corporation to transport passengers and their baggage between Walnut Creek, Concord, Orinda, and San Francisco International Airport over the most expeditious streets, roads, and highways. Applicant proposes to operate service on a regular schedule basis, as well as on a reservation basis, using a ten-passenger van which applicant proposes to lease.

Hearings were held on February 27, 1978 before Administrative Law Judge Kenji Tomita in San Francisco. Three operators offering airport limousine service, Chauffeur's Union Local 1265, and Public Services Planning and Analysis Corporation (PSPA), who filed an application for a similar certificate on December 9, 1976,<sup>1/</sup> appeared as protestants. Clifford E. Nelson, an individual, and the city and county of San Francisco appeared as interested parties. The Commission staff was represented by Mr. R. O. Collins of the Transportation Division who assisted in the development of the record.

Applicant testified that his son and daughter-in-law will move to Contra Costa County and operate the business. His son, who is 21 years old, will be the driver, and his daughter-in-law will answer the telephone and serve as a back-up driver. Applicant proposes to charge fares of \$9.50, \$9.00, and \$8.50, respectively, for service between Concord, Walnut Creek, Orinda, and San Francisco International Airport.

In order to demonstrate public convenience and necessity, applicant presented a petition signed by various travel agents in Contra Costa County stating that service is necessary between Contra Costa County and San Francisco International Airport. Russell Juillerat, a sales agent for United Airlines, was the only witness who testified on behalf of applicant as to need for the service. ✓

Applicant's Exhibit No. 1 indicates that applicant has a net worth of approximately \$108,000; Applicant also owns a travel agency in Sonoma County and is a full-time employee at Hills Bros. He anticipates that his contribution would be to provide financial backing and also help on weekends. Neither he nor his son have had any professional experience as a driver or in conducting passenger stage operations. ✓

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<sup>1/</sup> By Decision No. 88953 dated June 13, 1978 in Application No. 56927, PSPA was granted authority to extend its certificated service to include service between Walnut Creek, Concord, Orinda, and San Francisco International Airport.

Protestants offering on-call limousine service to San Francisco International Airport raised valid questions on the reasonableness of applicant's cost estimates, revenue estimates, and time schedules. Protestants also testified that door-to-door service was presently available, and regular scheduled service (as proposed by the applicant) was not being offered because of past failures by others who attempted such service.

PSPA was granted a certificate to provide service to San Francisco International Airport from Concord, Walnut Creek, and Orinda by Decision No. 88953 dated June 13, 1978. Decision No. 88953 required PSPA to file a letter of acceptance of certificate within 30 days after the effective date of the order. Such letter has been filed. Decision No. 88953 requires PSPA to commence service on authorized routes within 120 days of the effective date. PSPA advises that it will commence operation on the new route segment on November 1, 1978.

PSPA will pick up passengers near the BART stations at Concord, Walnut Creek, and Orinda. PSPA's proposed fares are \$10.00 from Concord and Walnut Creek and \$9.00 from Orinda as compared to Deering's proposed rates of \$9.50, \$9.00, and \$8.50, respectively, for the above points.

PSPA and the other protestants serving the territory sought by the applicant are experienced passenger stage operators. We find, after a review of the evidence, that there is not enough demand for the proposed service to certificate yet another passenger stage operation.

Given the inconclusive evidence on the public demand for the proposed service, applicant has not demonstrated that public convenience and necessity exist for the operation it proposes. Further, we are not able to find that the proposed service would be compensatory or would sustain itself. The proposed operation is thinly capitalized and applicant has not had experience conducting or working for a company that conducted passenger stage operations.

Since we do not find the requisite elements of public convenience and necessity, we need not address Section 1032 of the Public Utilities Code.

If applicant can demonstrate at a later time that conditions have changed and there may reasonably be expected sufficient passengers to justify and support its proposed service, and that existing carriers are not able to fully or adequately provide the service, we will consider such conditions.

Findings

1. Applicant has not demonstrated by evidence that public convenience and necessity exist for the service it proposes.

2. Applicant is not an experienced passenger stage operator. Also, applicant has not demonstrated that it is sufficiently familiar with the operation of passenger stage service to reasonably sustain the providing of the proposed service.

Conclusion

The application of Patrick Deering to conduct passenger stage service should be denied.

O R D E R

IT IS ORDERED that applicant's request, for a certificate of public convenience and necessity as a passenger stage corporation between San Francisco International Airport and Concord, Walnut Creek, and Orinda, is denied.

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

Dated at San Francisco, California, this 9th day of NOVEMBER, 1978.

*I would grant certificate  
I dissent  
Robert B. Trueman*

*I would grant  
a certificate  
I dissent  
Claire J. D. Drich*

~~Robert~~  
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President  
*William J. ...*  
*Vermon ...*  
*Richard D. ...*

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Commissioners