

Decision No. 89791 DEC 19 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Robert Lee Curtis, dba Bob's Ride, for certificate of public convenience and necessity to operate a passenger stage service between San Diego Airport, Downtown San Diego, and MCRD San Diego, Ca.; and Downtown Oceanside and Camp Pendleton at Oceanside, Ca.

Application No. 58117
(Filed June 2, 1978)

In the Matter of the Application of PENMAR TRANSIT COMPANY for certificate of public convenience and necessity to operate as a passenger express service between San Diego Airport (Lindbergh Field) and Camp Pendleton Marine Corps Base, located at Oceanside, Ca.

Application No. 58133
(Filed June 12, 1978)

Application of WENDELL PRESTON BISHOP and PATRICIA RUTH BISHOP, dba PENMAR TRANSIT, for a Class "B" certificate to operate as a charter-party carrier of passengers. (TCP-63-B.)

Application No. 58182
(Filed June 29, 1978)

Joseph A. Bradley III, Attorney at Law,
For Robert Lee Curtis, dba Bob's Ride, applicant in A.58117.

Patricia Ruth Bishop, for herself and Wendall Preston Bishop, dba Penmar Transit Company, applicants in A.58133 and A.58182.

Russell, Schureman & Hancock, by R. Y. Schureman, Attorney at Law,
For American Bus Lines, Inc., protestant in all three applications; and for Trailways, Inc., protestant in A.58182.

David L. Bain, for Goodall's Charter Bus Service, Inc.; protestant in A.58182, interested party in A.58117 and A.58133.
Anthony T. Carr, for Greyhound Lines, Inc.; and Leo E. Razez, Jr., dba Maxi Taxi, for himself; protestants in all three applications.
William Austin, for the Commission staff.

O P I N I O N

A.58182 and A.58133 are consolidated with each other and with A.58117.

In A.58117, Robert Lee Curtis (Curtis), dba Bob's Ride, seeks a certificate of public convenience and necessity (certificate), pursuant to Section 1031 of the Public Utilities Code (Code), to operate a passenger stage service between San Diego International Airport-Lindbergh Field (San Diego Airport), downtown San Diego, the Marine Corps Recruiting Depot (MCRD) in San Diego, Oceanside, and Camp Joseph H. Pendleton U.S. Marine Corps Base (Camp Pendleton); and from Camp Pendleton to the San Diego Airport, downtown San Diego, and MCRD in San Diego. The proposed routes are set forth in the application. The proposed fare of \$5 each way is set forth in Exhibit A attached to the application. The time schedule and the stops to be made are set forth in Exhibit B attached to the application.

The application states that Curtis intends to use a 400-horsepower, one-ton, 12-passenger 1976 Chevrolet van in the proposed service. Temporary back-up replacement equipment will be furnished by Dollar Rent-A-Car Systems in San Diego until Curtis can purchase his own back-up equipment. Curtis

A.58117, et al. es

states that he has insurance coverage of \$150,000 to \$350,000 for public liability and \$50,000 for property damage. His financial statement is set forth in Exhibit D attached to the application.

In A.58133, Wendell Preston Bishop and Patricia Ruth Bishop (Bishops), dba Penmar Transit Company, seek a certificate pursuant to Section 1031 of the Code to operate a passenger stage service between the San Diego Airport, on the one hand, and Camp Pendleton, on the other hand, for the purpose of transporting military personnel and their dependents and attendant baggage with origin or destination at San Diego Airport or the Camp Pendleton service area.

Exhibit A attached to the application sets forth that the proposed fare is \$5 per person each way. The proposed time schedule is set forth in Exhibit B; a map showing the proposed routes is set forth in Exhibit C; a description of the equipment proposed to be used is a 12-passenger 1977 Ford E150-ECONO, owned by the Bishops, as set forth in Exhibit D; and Exhibit E attached to the application sets forth the financial statement of the Bishops.

In A.58182 the Bishops seek a certificate to operate as a Class "B" charter-party carrier of passengers, as defined in Section 5371.2 of the Code, with the same equipment proposed to be used in A.58133.

The granting of the requested certificates in all of the above three applications have been protested by Greyhound Lines, Inc. (Greyhound), American Bus Lines, Inc. (American), and Leo E. Razee, Jr. (Razee), dba Maxi Taxi. Goodall's Charter Bus Service, Inc., and Trailways, Inc., protested the issuance of a certificate in A.58182 only.

After proper notice a hearing was held in San Diego on October 25 and 26, 1978 before Administrative Law Judge James D. Tante, and the matter was submitted on the latter date.

At the hearing the Bishops made a motion to dismiss A.58182, their application for a Class "B" certificate to operate as a charter-party carrier of passengers. There was no objection to the motion, it should be granted, and A.58182 should be dismissed.

Curtis testified for himself. Patricia Ruth Bishop testified for the Bishops. Razez testified for himself.

Exhibit 1, the proposed certificate requested by the Bishops to operate as a passenger stage corporation; Exhibit 2, the proposed certificate requested by Curtis to operate as a passenger stage corporation; Exhibit 3, a document setting forth Curtis' proposed service including the schedules, the places of pickup, and the rate to be charged; Exhibit 4, an insurance binder issued in favor of Curtis; Exhibit 5, Exhibit 1 as amended and agreed to between the Bishops, American, and Greyhound in A.58133; Exhibit 6, Exhibit 2 as amended and agreed to between Curtis, American, and Greyhound in A.58117; Exhibit 7, a photograph depicting the car-for-hire area at the San Diego Airport; and Exhibit 8, a letter from the office of the Provost Marshall at Camp Pendleton to Curtis dated June 19, 1978, were received in evidence.

The Bishops admitted that Exhibit 1 properly sets forth the authority sought by A.58133. They modified the authority requested to restrict service to the transportation of passengers in motor vehicles having a capacity not exceeding

12 passengers, including the driver, and stated that Exhibit 5 correctly sets forth the authority sought in this application as modified.

As the result of the modification by the Bishops and based upon the fact that the authority granted the Bishops, if any, would not exceed that set forth in Exhibit 5, Greyhound and American withdrew their protests.

Curtis admitted that Exhibit 2 correctly sets forth the authority sought in A.58117. He modified the authority requested and stated that Exhibit 6 correctly sets forth the authority sought in this application. Exhibit 6 provides that service shall be restricted to the transportation of passengers in motor vehicles having a capacity not exceeding 12 passengers, including the driver. It further provides that service shall be only between the San Diego Airport and the Camp Pendleton service area and the Camp Pendleton service area and the San Diego Airport; and that all passengers transported are to originate at the San Diego Airport and have as their destination the Camp Pendleton service area or are to originate at the Camp Pendleton service area and have as their destination the San Diego Airport, with no intervening service. Based on the modification by Curtis and the restriction of the authority as set forth in Exhibit 6, Greyhound and American withdrew their protests.

The Bishops and Curtis have heretofore transported passengers from the San Diego Airport to Camp Pendleton and from Camp Pendleton to the San Diego Airport. They had licenses that were issued by the city of San Diego and were not aware that it was necessary to have a certificate to

conduct a passenger stage service. Upon being advised by a representative of the Commission that they were in violation of law, they terminated their activity and made application for certificates as set forth in their respective applications.

Curtis and the Bishops have or will comply with the requirements of the motor carrier safety section of the California Highway Patrol with respect to the inspection of their vehicles. They have established reasonable business and financial responsibility to initiate and conduct the proposed transportation service.

Protestant Razez drove a taxicab in the San Diego area for nine years until March of 1977 when he went into the taxicab business for himself. He has a nine-passenger vehicle which he testified he purchased in order to transport a large number of passengers on longer trips, such as trips from the San Diego Airport to Camp Pendleton. He stated that it is not necessary for Curtis or the Bishops to operate a passenger stage service between the San Diego Airport and Camp Pendleton because there are over 400 taxicabs operating in the San Diego area and it is expected that 144 taxicabs will be added during the next year. He stated that at the present time there are approximately seven taxicabs which hold seven or more passengers and large taxicabs are among the ones to be added during the next year. He did not contend that the Bishops and Curtis did not have the ability or equipment necessary to conduct the proposed transportation service.

Razez testified that the fare from the San Diego Airport to Camp Pendleton in a taxicab is \$35, or approximately \$3.88 for each passenger, if nine passengers are taken on one trip. He stated that this is less than the fare of \$5 per person proposed to be charged by Curtis and the Bishops. He stated, however, that the fare of \$35 would be applicable to one trip even if there were fewer than nine passengers, or even one.

Curtis and the Bishops intend to make each trip in accordance with their schedules as long as at least one passenger is to be transported, and will cooperate with each other and other persons operating between the San Diego Airport and Camp Pendleton in order to have schedules which will be advantageous to all concerned.

Findings

1. Public convenience and necessity require that Curtis and the Bishops be authorized to engage in the operation of passenger stage service from the San Diego Airport to Camp Pendleton and from Camp Pendleton to the San Diego Airport when the point of origin and destination is either the San Diego Airport or Camp Pendleton, as set forth in Exhibits 6 and 5, respectively.
2. Curtis and the Bishops possess the desirable experience, necessary equipment, and financial resources to provide the proposed service.
3. The proposed fares are reasonable.
4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. The taxicab service of protestant Razee differs from the proposed passenger stage corporation service of Curtis and the Bishops in that taxicab service does not afford the public a fixed schedule of operation and a uniform individual fare. Since taxicab service has different characteristics Razee's protest should not preclude the Commission from granting the applications for passenger stage certificates under consideration herein.

6. Public convenience requires prompt commencement of the proposed service, the opposition is not substantial or meritorious and there is no valid reason to delay granting the relief requested. The effective date of the following order should be the date of signature.

7. A. 58182 should be dismissed.

The Commission concludes that A.58117 and A.58133 should be granted as set forth in the ensuing order and that A.58182 should be dismissed.

Robert Lee Curtis, dba Bob's Ride, and Wendell Preston Bishop and Patricia Ruth Bishop, dba Penmar Transit Company, 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 a 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 cancelled 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 Robert Lee Curtis, dba Bob's Ride, 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 attached hereto and made a part hereof.
2. A certificate of public convenience and necessity is granted to Wendell Preston Bishop and Patricia Ruth Bishop, dba Penmar Transit Company, authorizing them 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.
3. Application No. 58182 is dismissed.
4. In providing service pursuant to the authority granted by this order, the applicants shall comply with the

following service regulations. Failure to do so may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicants shall file a written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate 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, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 19th day of DECEMBER, 1975.

Robert Butwin
President
William J. Gannon
Vernon L. Sturgeon
Charles W. Hoach
Clare T. DeBrih
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC No. 1061

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. DEC 19 1978,
dated 80704, of the Public Utilities Commission
of the State of California, in Application No. 58117.

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Issued by California Public Utilities Commission.

Decision No. 89701 , Application No. 58117.

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

Robert Lee Curtis, doing business as Bob's Ride, 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-Lindberg Field in the City of San Diego, on the one hand, and Camp Joseph H. Pendleton, U.S. Marine Corps Base (Camp Pendleton Service Area), located in the County of San Diego, on the other hand, 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) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets 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 operation in either direction unless otherwise indicated.
- (c) All service herein authorized shall be limited to the transportation of military personnel and/or their dependents, and attendant baggage, with origin or destination at San Diego International Airport, on the one hand, and Camp Pendleton Service Area, on the other hand.
- (d) 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.
- (e) Service shall be restricted to the transportation of passengers in motor vehicles having a capacity not exceeding 12 passengers, including the driver.

Issued by California Public Utilities Commission.

Decision No. 89791 ↓ Application No. 58117.

SECTION 2. DESCRIPTION OF SERVICE AREA AND LOCATION.

Camp Pendleton Service Area

Pickup and discharge of passengers shall be limited to the Main Gate and San Luis Rey Gate of Camp Joseph H. Pendleton and to those points within the military boundaries of Camp Joseph H. Pendleton as authorized by the command.

Issued by California Public Utilities Commission.

Decision No. ~~89791~~, Application No. 58117.

SECTION 3. ROUTE DESCRIPTIONS.

Route 1. San Diego International Airport-Camp Pendleton Service Area

Beginning at San Diego International Airport-Lindberg Field, 3650 N. Harbor Drive, in the City of San Diego, where passengers embark; thence south on Harbor Drive, east on Laurel Street, north on India Street to north on Interstate Highway 5 (I-5), east on State Highway 76, north on North River Road to the Camp Pendleton Service Area via San Luis Rey Gate where passengers are discharged. Return to San Diego International Airport-Lindberg Field from the Camp Pendleton Service Area via west on Vandegrift Boulevard to south on Interstate Highway 5 (I-5) to point of beginning along reverse of street routes in City of San Diego.

ROUTE 2. San Diego International Airport-Camp Pendleton Service Area

Beginning at San Diego International Airport-Lindberg Field, 3650 N. Harbor Drive, in the City of San Diego, where passengers embark; thence south on Harbor Drive, east on Laurel Street, north on India Street to north on Interstate Highway 5 (I-5) to Camp Pendleton Main Gate, Vandegrift Boulevard and Camp Pendleton Service Area. Return via west on Vandegrift Boulevard and Main Gate to south on Interstate Highway 5 (I-5) to point of beginning along reverse of street routes in the City of San Diego. Alternate return route from Camp Pendleton Service Area via exit San Luis Rey Gate and continue south on North River Road to State Highway 76, west on State Highway 76 to south on Interstate Highway 5 (I-5) to point of beginning along reverse of street routes in City of San Diego.

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Appendix B /ai

Wendell Preston Bishop and
Patricia Ruth Bishop
doing business as
PENMAR TRANSIT COMPANY

Original Title Page

CERTIFICATE

of

PUBLIC CONVENIENCE AND NECESSITY

PSC No. 1062

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. 89791
dated DEC 10 1979, of the Public Utilities
Commission of the State of California, in Application No. 58133.

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Issued by California Public Utilities Commission.

Decision No. 89791, Application No. 58133.

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

Wendell Preston Bishop and Patricia Ruth Bishop, doing business as Penmar Transit Company, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to operate as a passenger stage corporation to transport passengers and their baggage between San Diego International Airport-Lindberg Field in the City of San Diego, on the one hand and Camp Joseph H. Pendleton, U.S. Marine Corps Base (Camp Pendleton Service Area), located in the County of San Diego, on the other hand, 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:

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Issued by California Public Utilities Commission.

Decision No. 89731, Application No. 58133.

SECTION 2. DESCRIPTION OF SERVICE AREA AND LOCATION.

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