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Decision No. 90243 APR 24 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
 Lois J. Kohler, doing business as)
 WEST VALLEY CHARTER LINES to)
 transfer a portion of a certifi-)
 cate of Public Convenience and)
 Necessity and Norman S. Burnett,)
 doing business as B&B Commute)
 Service, to acquire, pursuant to)
 Section 85 et seq., of the Cali-)
 fornia Public Utilities Code.)

Application No. 57728
 (Filed December 6, 1977)

In the Matter of the Application)
 of Lois J. Kohler, doing bus-)
 iness as WEST VALLEY CHARTER)
 LINES to transfer a portion of a)
 Certificate of Public Convenience)
 and Necessity and Leo R. Dissel-)
 kamp, Gary R. Bowen and Ronald E.)
 Ibold, doing business as EAST)
 VALLEY LINES to acquire, pursuant)
 to Section 85 et seq., of the)
 California Public Utilities Code.)

Application No. 57729
 (Filed December 6, 1977)

In the matter of the Application)
 of Lois J. Kohler, doing business)
 as WEST VALLEY CHARTER LINES to)
 transfer a portion of a certifi-)
 cate of Public Convenience and)
 Necessity and Cornelius Berghout,)
 doing business as CAMPBELL COMMUTE)
 to acquire, pursuant to Section)
 85 et seq., of the California)
 Public Utilities Code.)

Application No. 57731
 (Filed December 7, 1977)

In the matter of the Application)
 of Lois J. Kohler, doing business)
 as WEST VALLEY CHARTER LINES to)
 transfer a portion of a certifi-)
 cate of Public Convenience and)
 Necessity and William C. Trader,)
 doing business as Overland Stage)
 Line, to acquire, pursuant to)
 Section 85 et seq., of the Cali-)
 fornia Public Utilities Code.)

Application No. 57920
 (Filed March 10, 1978)

In the matter of the Application)
of Lois J. Kohler, an individual,)
doing business as West Valley)
Charter Lines, to transfer and)
Whippet Charter Service, Inc., to)
acquire, a portion of a certifi-)
cate of Public Convenience and)
Necessity, pursuant to Section)
85 et seq., of the California)
Public Utilities Code.)
)

Application No. 58083
(Filed May 19, 1978)

In the matter of the Application)
of Lois J. Kohler, an individual)
doing business as West Valley)
Charter Lines to abandon a portion)
of a Certificate of Public Conven-)
ience and Necessity granted under)
authority of Decision 85057 in)
Case 9725.)
)

Application No. 58129
(Filed June 8, 1978)

FIRST SUPPLEMENTAL OPINION

Lois J. Kohler operates home-to-work passenger stage service between the United Airlines Maintenance Base at the San Francisco International Airport and various specified points in the greater San Jose/Santa Clara Valley area, pursuant to Certificate of Public Convenience and Necessity PSC-887. By these applications, selected portions of this authority were to be transferred to each of five transferees, with the balance of the authority to be abandoned.

By Decision 89213 dated August 8, 1978, we authorized the requested transfers and the abandonment application (A. 58129).

We ordered in part, that:

"8. In the event any, but not all, of the five authorized transfers is completed, then Lois J. Kohler shall continue service to all points not so transferred in accordance with the tariffs and timetables in effect on the effective date of this order. The Commission will then issue a corrected Certificate to Ms. Kohler by Supplemental Order, formally setting forth her remaining operating authority. Transfer of any authority as herein authorized shall constitute acceptance of this order by Ms. Kohler."

Subsequent to our Order in Decision 89213, the transfers authorized in Applications 57728, 57729, 57731, and 57920 were completed. However, the transfer authorized in Application 58083 (to Whippet Charter Service, Inc.) has not been completed; this being evident by the lack of Whippet's filing of tariffs, timetables, or an acceptance of the certificate granted to it by that application. Additionally, Lois J. Kohler and Richard Thompson (President of Whippet) have each informed the staff of the Transportation Division that this contemplated transfer did not, and will not, occur. By letter dated February 21, 1979, the staff confirmed this understanding and requested Ms. Kohler and Mr. Thompson to write response letter(s) by March 1, 1979, in the event of any error in this regard; no such correction has been received from either party. Accordingly, and consistent with our Order in Decision 89213 as noted above, we will issue a corrected Certificate to Ms. Kohler by the following Supplemental Order.

Lois J. Kohler is 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 cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

FINDINGS

1. The transfers authorized in Applications 57728, 57729, 57731, and 57920, have been completed.
2. The abandonment authorized in Application 58129 is affirmed.
3. The transfer authorized in Application 58083 was not completed.
4. Pursuant to Ordering Paragraph 8 of Decision 89213, a corrected certificate should be issued to Lois J. Kohler setting forth the authority which was to have been transferred in Application 58083, but was not.
5. The following Supplemental Order should issue.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. The Certificate of Public Convenience and Necessity authorized to Whippet Charter Service, Inc. by Decision 89213 Appendix "E" therein is hereby revoked. Whippet Charter Service, Inc. retains its pre-existing operating authority (as issued by Decision 85057 and subsequently amended).

2. Lois J. Kohler, dba West Valley Charter Lines, is hereby issued the corrected certificate contemplated by Decision 89213. This corrected certificate is attached hereto as "Appendix A".

3. By no later than July 15, 1979, Ms. Kohler shall file with this Commission written acceptance of the certificate attached hereto.

4. By no later than July 15, 1979, Ms. Kohler shall file corrected tariffs and timetables with the Commission, naming the rates and rules governing the common carrier operations contained in the attached certificate, and cancelling any previous tariffs and timetables relating to routes transferred by Applications 57728, 57729, 57731, and 57920. The tariff and timetable filing made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders 79-Series and 98-Series.

5. Ms. Kohler shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order 98-Series and insurance requirements of the Commission's General Order 101-Series.

6. Ms. Kohler shall maintain her 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 her operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

7. Applications 57728, 57729, 57731, and 57920, their having been successfully completed, are hereby closed.

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

Dated at San Francisco, California, this 24th day of APRIL, 1979.

John E. Bayron
President
Carson L. Sturgeon
Charles W. Howell
Clair J. D. D. D. D.
Lawrence D. D.
Commissioners

LOIS J. KOHLER
DBA
WEST VALLEY CHARGER LINES

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
TO OPERATE AS
A PASSENGER STAGE CORPORATION
PSC-887

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 by California Public Utilities Commission.

Decision 90242, Application 58083.

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

The certificate hereinafter noted supersedes all operative authority heretofore granted to Lois J. Kohler, dba West Valley Charter Lines, to operate as a passenger stage corporation.

Lois J. Kohler, dba West Valley Charter Lines, by the Certificate of Public Convenience and Necessity granted by the decision noted in the margin, is authorized to transport passengers between the United Airlines Maintenance Base at the San Francisco International Airport, on the one hand, and the points specified below in the Cities of San Jose and Sunnyvale, on the other hand, subject, however, to the authority of this Commission to change or modify said points at any time and subject to the following provisions:

- (a) Only passengers destined to or originating at the United Airlines Maintenance Base 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 Maintenance Base.
- (d) Pickup and discharge of passengers will be limited to specific points hereinafter described. Restriction to a specific shift is noted in Section 2.

The route traversed during pickup at the beginning of the work shift will be traveled in reverse at the end of the work shift.

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Decision 90242, Application 58083.

SECTION 2. DESCRIPTION OF POINTS SERVED.

Service for specific pickup and discharge points shall be between the United Airlines Maintenance Base and the following points; on the Graveyard and Swing Shifts only:

1. Monterey Highway and Senter Road, San Jose
2. McLaughlin Avenue and Bellingham Drive, San Jose
3. Tully Road and King Road, San Jose
4. Quimby Road and White Road, San Jose
5. Story Road and King Road, San Jose
6. Lakewood Drive and Lawrence Expressway, Sunnyvale

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 93242, Application 58083.