

EA

Decision No. 90679 'AUG 14 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIANA HALDERMAN,)
)
 Complainant,)
)
 vs.)
)
 ASSOCIATED CHARTER BUS COMPANY,)
 a corporation and also doing)
 business as CALIFORNIA SIGHT-)
 SEEING TOURS, INC.,)
)
 Defendants.)

Case No. 10666
(Filed September 13, 1978)

RICHARD FRESH,)
)
 Complainant,)
)
 vs.)
)
 ASSOCIATED CHARTER BUS COMPANY,)
 a corporation and also doing)
 business as CALIFORNIA SIGHT-)
 SEEING TOURS, INC.,)
)
 Defendants.)

Case No. 10671
(Filed September 22, 1978)

ORDER OF DISMISSAL

Complainants herein seek an order which asks, among other things, that the Commission determine its jurisdiction in this matter and to determine a just and reasonable rate that defendants may charge complainants, and all others similarly situated, for student bus fares in the Palos Verdes Unified School District for the 1978-1979 school year.

Complainants allege, inter alia, that defendants are entities regulated and governed by the Public Utilities Commission (Commission) under the authority contained in the Public Utilities Act of the State of California and are also regulated as common carriers under said Act; that defendants have demanded from them, as well as from other subscribers to the bus service supplied by defendants, a fare increase of 61 percent per student for the 1978-79 school semester over 1977-78 charges for the transportation of each child transported on defendants' buses from home to school; that a 61 percent increase per child as compared to the prior year is unjust, unreasonable, and in violation of Chapter 3, Article 1, Section 451 of the Public Utilities Code; that defendants filed an application for a rate increase with the Commission and that the Commission had not acted to authorize defendants a fare increase at the time of filing their complaint; that student bus transportation to various schools of the Palos Verdes Unified School District will be denied those school children whose fares at the higher rate are not prepaid; that defendants are utilizing duress to force complainants and other persons similarly situated to pay unjust, unreasonable, and unauthorized increased charges for fares so their children could ride buses to school; and that although defendants have increased their fare rates, they have decreased the number of buses servicing the Palos Verdes Unified School District to the point of providing unsatisfactory service. Complainants seek an order requiring defendants to accept fares at the previous rates and to refund any monies collected at the increased rate until a determination has been made by the Commission as to what just and reasonable rates should be charged and that the Commission cause an investigation to be made concerning the level of service being provided by defendants.

Defendant, California Sightseeing Tours, Inc., alleging the complaints erroneously style defendant as Associated Charter Bus Company, by way of answer, admits that it increased its rates for the transportation of school children in the Palos Verdes Peninsula area on or about August 18, 1978; that it filed an application with the Commission in January 1978, seeking an increase in rates, and that the Commission has not authorized it to increase such rates for school bus service; that its increased charges are \$90 per child per semester and that if a student does not pay for transportation, said student will not be permitted to ride on the school bus; that complainants have each paid it the sum of \$180 for the transportation of their respective two children for the period of one semester; and that other persons desiring school bus service in the Palos Verdes Unified School District have paid it its charges requested for the said transportation service. Defendant, further answering complainants, alleges that complainants have clear, speedy, and adequate remedies other than prosecution of their complaint proceeding before the Commission, such as the utilization of the services of Southern California Rapid Transit District and the utilization of any other bus operator who will perform the service at a price complainants find acceptable. As an affirmative defense, defendant alleges that since the only for-hire operation performed by it is the transportation of school children between their homes and educational institutions, it is exempt from regulation by the Commission. As an additional affirmative defense, defendant alleges that inasmuch as it is no longer subject to the jurisdiction of the Commission and the Commission has no jurisdiction over the subject matter of the complaints herein, the same should be dismissed. Finally,

defendant alleges that an assertion of jurisdiction by the Commission over the business of defendant would constitute an unlawful taking of property and a deprivation of due process under the Fourteenth Amendment of the United States Constitution. Defendant requests an order denying all relief sought by complainants and that their complaints be dismissed.

On April 20, 1979 the Commission adopted Decision No. 90230 on Applications Nos. 57854 and 58370. Application No. 57854 was a request by defendant for authority to increase fares for the transportation of school children between their homes and schools in the Palos Verdes Peninsula area. Application No. 58370 was a request by defendant for revocation of its existing certificates of public convenience and necessity. In Decision No. 90230 we found that the various routes authorized by defendant's certificate of public convenience and necessity issued in Decision No. 89267, with the exception of the Palos Verdes Peninsula Unified School District bus operation, had been dormant and not in operation for at least two years. We found the same to be true with respect to the route authorized by defendant's certificate of public convenience and necessity issued in Decision No. 83046. We also found that the only operation conducted by defendant was the transportation of bona fide pupils between their homes and schools. We also held in Decision No. 90230 that since the transportation of students between their homes and schools was the only operation conducted by defendant, such operation was exempt from the regulatory authority of this Commission pursuant to Public Utilities Code Section 226 (defining passenger stage corporations under the jurisdiction of the Commission) which states in part:

"'Passenger stage corporation' includes every corporation...engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state...or over a regular route except those, ...whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institution." (Emphasis added.)

Findings

1. The transportation of bona fide pupils between their homes and schools is the sole operation conducted by defendant.
2. Public Utilities Code Section 226 defines passenger stage corporations under the jurisdiction of the Commission.
3. Public Utilities Code Section 226 excludes from the definition of a passenger stage corporation those corporations whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institution.

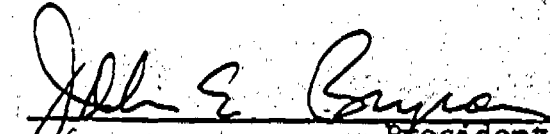
In view of our finding in Decision No. 90230 that the Palos Verdes Peninsula Unified School District bus operation was the only operation conducted by defendant and our order in that decision revoking all of defendant's existing certificates of public convenience and necessity, it is concluded that the subject matter contained in these complaint proceedings lie outside the Commission's jurisdiction and that the complaints should be dismissed.

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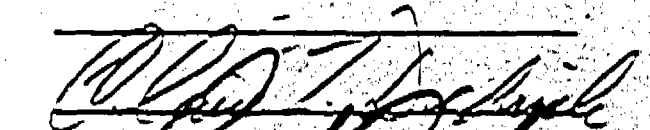
IT IS ORDERED that Cases Nos. 10666 and 10671 are dismissed.


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

Dated at San Francisco, California, this 14th day of AUGUST, 1979.



President





Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.