

ORIGINAL

Decision No. 91778 MAY 6 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Joint Application)
of SAN MATEO COUNTY TRANSIT DISTRICT)
and MISSION TRAILS CHARTER SERVICE,)
INC. for determination of just)
compensation under Public Utilities)
Code Section 103243)

Application No. 59602
(Filed April 18, 1980)

ORDER OF DISMISSAL

Mission Trails Charter Service, Inc. (Mission Trails) is a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, and as such is engaged in the transportation of passengers between the Foster City/San Mateo area of San Mateo, on the one hand, and the City and County of San Francisco, on the other hand, pursuant to a certificate of public convenience and necessity (PSC-911) issued by the Commission.

San Mateo County Transit District (District) is a public corporation and political subdivision of the State of California established pursuant to the authority of Sections 103000 et seq. of the Public Utilities Code. It is empowered to provide transit services throughout the County of San Mateo and between that county and other counties.

On February 27, 1980, the Board of Directors of District adopted its Resolution No. 1980-13, authorizing the commencement by District of an action in eminent domain to acquire certain assets of Mission Trails.

On April 16, 1980, District filed a complaint in eminent domain in the San Mateo County Superior Court seeking to acquire certain assets of Mission Trails including its operating rights^{1/}

1/ When Mission Trails' assets are transferred to District, the operating rights will lapse.

under its certificate, its corporate name, and its right, title, and interest in and to specified buses.

District and Mission Trails have conducted extensive negotiations to arrive at a fair and just compensation to be paid by District to Mission Trails for the assets to be acquired in the eminent domain action. The negotiations have produced an agreement with respect to compensation, which the parties will incorporate into a Stipulation for Judgment and file with the San Mateo County Superior Court. In general terms, both parties agree that the sum of \$138,000 will constitute just compensation for the assets to be acquired by District in the condemnation action.

Mission Trails and District request that the Commission exercise its jurisdiction under Section 103243 of the Public Utilities Code and fix the just compensation for the property of Mission Trails to be acquired by District in the pending eminent domain proceedings at the sum agreed to by the parties.

Discussion

Section 103243 provides:

"The Public Utilities Commission of the state shall have and exercise power and jurisdiction to fix just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings brought by the district. . . . The district may commence and maintain such eminent domain proceedings in the Public Utilities Commission or the superior court at its option."

The Commission concludes that the application should be dismissed for lack of jurisdiction.

IT IS ORDERED that the application is dismissed.

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

Dated MAY 6 1980 , at San Francisco, California.

John E. Bayson
President

Herbert L. Stinson

Richard D. Howell

Clive J. DeFuria

Arnold W. Spang
Commissioners



Section 103243 does not confer any greater power or authority upon the Commission with respect to passenger stage corporations than that which the Commission already possesses under Sections 1401 et seq. of the Public Utilities Code, which provide for the determination by the Commission of just compensation for acquisition of public utility properties. Section 1421 provides:

"The procedure provided in this chapter shall be alternative and cumulative and not exclusive, and the political subdivision shall continue to have the right to pursue any other procedure providing for the acquisition under eminent domain proceedings of the lands, property, and rights of any public utility. . . ."

Thus, once District has exercised the option granted by Section 103243 to file its eminent domain action in the Superior Court, that election deprives the Commission of jurisdiction to determine just compensation.^{2/}

^{2/} Compare People v City of Fresno (1967) 254 CA 2d 76.