

ORIGINAL

Decision No. 91822 MAY 20 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NAPA VALLEY COMPANY, INC.,
Complainant,

vs.

RICHARD A. PENCE and LARRY L. VASQUEZ,
a partnership d/b/a VICTORIA EXPRESS
TOURS,
Defendants.

Case No. 10813
(Filed December 11, 1979)

Loughran & Hegarty, by Edward J. Hegarty, Attorney
at Law, for Napa Valley Company, Inc., complainant.

O P I N I O N

This is a complaint by Napa Valley Company, Inc. against Richard A. Pence and Larry L. Vasquez, doing business as Victoria Express Tours. The complaint seeks the revocation of defendants' operating authority.

A duly noticed public hearing was held before Administrative Law Judge Donald B. Jarvis in San Francisco on April 17, 1980, and the matter was submitted on that date.

The Commission makes the following findings and conclusions:

Findings of Fact

1. The complaint was filed on December 11, 1979.
2. The Commission's records indicate that the complaint and notice to answer were duly served on defendants, in accordance with Rule 12, on December 13, 1979.
3. Defendants have not answered the complaint.
4. Defendants were duly served with a notice of hearing and did not appear at the public hearing.

5. Decision No. 91038 in Application No. 58967, entered on November 20, 1979, granted complainant a certificate of public convenience and necessity to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between Napa and the Silverado Country Club in Napa County and various wineries and points of interest in Napa County as described in said certificate. The decision also granted complainant a certificate of public convenience and necessity to operate as a Class B Charter-Party Carrier of Passengers, as defined in Section 5383 of the Public Utilities Code, from a service area encompassing a radius of 40 miles from applicant's home terminal in Napa, subject to the restriction that all passengers transported shall have a prior or subsequent involvement in applicant's passenger stage service within Napa County.

6. Decision No. 89277 in Application No. 58008, entered on April 18, 1978, granted defendants a certificate of public convenience and necessity to operate as a passenger stage corporation between St. Helena and Yountville on the one hand and various wineries and points of interest in Napa County on the other hand.

7. Defendants have never filed any tariffs or timetables with this Commission.

8. Defendants have never had nor do they now possess any operating equipment.

9. Defendants have never filed any evidence of liability insurance with the Commission.

10. Defendants have never conducted any operations under their certificate of public convenience and necessity.

11. Complainant has invested money in equipment in order to provide service under its operating authority and defendants' dormant authority inhibits complainant's operations.

Conclusions of Law

1. Defendants' certificate of public convenience and necessity should be revoked for failure to exercise the certificate and abandonment thereof. (Steven Norris Andrews (1980) Decision No. 91385 in Application 58799; Michael A. Kadletz (1980) Decision No. 91387 in Application No. 58302; Holiday Airlines, Inc. (1972) 73 CPUC 75.)

2. Defendants' certificate of public convenience and necessity should be revoked for failure to file evidence of liability insurance with the Commission. (Jack Woodman^{SS} (1967) 67 CPUC 446, memorandum decision.) SS

O R D E R

IT IS ORDERED that the certificate of public convenience and necessity granted in Decision No. 89277 to Richard A. Pence and Larry L. Vasquez, doing business as Victoria Express Tours, is hereby revoked.

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

Dated MAY 20 1980, at San Francisco, California.

John E. Bayron
President
Richard A. Pence
Larry L. Vasquez
Clara J. Delgado
Terence J. Griffin
Commissioners