

Original *td 5*

Decision No. 92723 February 18, 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Melvin F. Sims, dba Sims Limousine)
Service, for certificate of public)
convenience and necessity to operate)
a passenger stage service over the)
most direct routes from points in)
downtown Los Angeles and West)
Los Angeles and Beverly Hills to)
Los Angeles International Airport.)

Application No. 59468
(Filed February 21, 1980)

Stewart S. Barnett, Attorney at Law, and Stanley E. Long, for Melvin F. Sims, applicant.
James H. Lyons, Attorney at Law, for Airport Service Inc., protestant.
K. D. Walpert, for Department of Transportation, City of Los Angeles; and James P. Jones, for United Transportation Union; interested parties.

O P I N I O N

By this application, Melvin F. Sims (Sims), doing business as Sims Limousine Service, seeks a certificate of public convenience and necessity pursuant to Sections 1030 et seq. of the California Public Utilities Code to establish and operate a passenger stage service over and along the most direct routes between specified points in Los Angeles County, on the one hand, and the Los Angeles International Airport (LAX), on the other hand. Sims proposes to perform scheduled service from and to the following hotels: Le Parc Hotel, 733 Northwest Knoll Drive, Los Angeles; Bel Air Sands Hotel, 11461

Sunset Boulevard, Los Angeles; Hyatt on Sunset, 8401 Sunset Boulevard, Hollywood; and the Biltmore Hotel, 515 South Olive Street, Los Angeles.

Airport Service, Inc. (ASI) filed a written protest to the application.

After duly published notice a prehearing conference was held in Los Angeles on August 8, 1980 and hearings were held on November 5 and 6, 1980 in Los Angeles before Administrative Law Judge Bernard A. Peeters. The matter was submitted on the latter date.

The Evidence

Sims presented his case through four witnesses and eight exhibits. Sims' testimony shows that he has built a limousine service into a thriving community service.

Sims states that he has leased two executive vans and purchased a third. Each van was specifically ordered to custom specifications, which included:

- Custom Interior;
- Carpeting;
- Front and Rear Air Conditioning, with Ducts at Each Seat;
- Special Luggage Racks with Covers and Tiedowns;
- AM/FM Stereo with Front and Rear Speakers;
- Special Tinted Windows; and
- Radio Dispatch Capability.

These vans will carry a maximum of 15 persons.

Sims proposes a schedule from the first three designated hotels that will provide pickups on an hourly basis and every hour and one-half, at the Biltmore Hotel. He proposes to operate the schedules during a 10-hour period in the day.

Sims alleges that there is no service offered from the Le Parc, Bel Air Sands, and the Hyatt on Sunset Hotels to LAX. He also alleges that the airport service from the Biltmore Hotel to LAX is inadequate. He bases the inadequacy of service on the fact that ASI provides service to the Biltmore Hotel at Grand Avenue entrance rather than at the front of the hotel on Olive Street. It is alleged therefore that the Biltmore's guests are forced to carry their luggage a full block when checking in or out. Sims also alleges that the service of ASI is inadequate at the Biltmore Hotel because it is the first passenger pickup point on the run to LAX thus requiring the passengers to sit through several stops before they are delivered to LAX. Based on this evidence, Sims alleges that he has met the burden imposed by Section 1032 by showing that ASI's service to the Biltmore is inadequate; therefore, his application should be granted.

The other three witnesses presented by Sims were Vernon L. Porter, vice president of operations at the Biltmore Hotel, Harvey Tannenbaum, assistant to the general manager of the Bel Air Sands

Hotel, and Bernice Shinder, a legal administrator for a law office in Beverly Hills. These witnesses sponsored letters in support of Sims' application.

Protestant's case was presented through D. W. Boyles, president of ASI. Boyles' prepared testimony and attached exhibits were received as Exhibit 5 in this proceeding. This testimony traces the history of ASI, showing that service was first established in 1957 by an affiliated corporation (Airport Coach Service), which operated between Santa Ana and Anaheim, on the one hand, and LAX, on the other. Such service subsequently was expanded to Orange County, points of Fullerton, Buena Park, Orange, Mission Viejo, Laguna Hills, Orange County Airport, Newport Beach, Huntington Beach, Seal Beach, El Toro Marine Corps Station, and Los Angeles County points of Long Beach Municipal Airport, Arcadia, Monrovia, and San Marino.

On March 4, 1970, two companies known as Airport Service, Inc. and Airport Coach Service were merged into one company. Initially, it was called MBF, Inc. a subsidiary of Chromaloy American. Subsequently the name was changed to Airport Service Incorporated.

ASI's principal place of business is 851 East Cerritos Avenue, Anaheim. At this location ASI has extensive facilities for its management personnel and for the service and repair of its motor coaches. ASI owns and operates 93 coaches representing an investment of almost \$6,000,000.

Boyles points out that by Decision No. 90383 dated June 5, 1979 in Application No. 58082, ASI was granted authority to purchase the operating rights of Airport Transit Inc. (APT). APT had commenced operations between LAX and downtown Los Angeles in 1948. On December 1, 1976 APT suspended its operations because of lack of funds. At the request of the city of Los Angeles the Southern California Rapid Transit District (SCRTD) instituted airport express service on December 2, 1976 over a number of lines formerly operated by APT. On December 31, 1976 ASI filed Application No. 56980 for a certificate to extend its service between LAX and downtown Los Angeles, Hollywood, West Los Angeles, Beverly Hills, and the San Fernando Valley. A restraining order was issued by the United States District Court, Southern District of California, pursuant to Bankruptcy Rule No. 11-44 which stayed all proceedings by the Commission with respect to the issuance of new certificates concerning APT's routes.

Subsequently, on May 16, 1978 ASI filed Application No. 58082 referred to above for the purchase of APT's certificate. SCRTD was a protestant in this matter and was successful in staying the effective date of the order by filing an application for rehearing. The differences between ASI and SCRTD were finally resolved, and on August 26, 1979 ASI took over the operations formerly served by APT.

ASI set up its initial schedules, including its terminals, based upon the operations of APT together with independent studies from the personnel of ASI. These schedules were eventually expanded to include several stops at the request of the Mayor and the City Council of the city of Los Angeles.

Among the terminals reinstated by the ASI was the stop on Grand Avenue between Fifth and Sixth Streets. This stop had been initiated by APT in 1948 and served both the Biltmore Hotel and the Mayflower Hotel, across the street. At the present time there are 41 schedules arriving at the Biltmore/Mayflower stop and another 41 schedules departing from the same terminal point. For practically an entire 24-hour period the schedules run every half hour.

The stop on Grand Avenue is on the east side of the street immediately adjacent to the Grand Avenue entrance to the Biltmore Hotel and across the street from the Mayflower Hotel which is on the west side of Grand Avenue. There is a telephone immediately inside the door of the Grand Avenue entrance of the Biltmore on which the patrons can call the bellhop if they need help with their baggage. The driver of the ASI bus announces this fact to all of its patrons just prior to arrival at the Biltmore. All charter buses serving the Biltmore Hotel use the Grand Avenue entrance with the exception of Gray Line Tours.

Boyles points out that service to and from any airport is expedited service with as few stops as possible. This is the same throughout the United States. In Washington, D.C. there is only one stop for airport service in downtown Washington; the same, in San Francisco. Until recently this has been the case in New York City, but at the present time service from the airport to New York City has for its terminal certain centrally located points. These points are usually selected hotels in the downtown area of New York from which all of the New York hotels are served. The same is true in Los Angeles. Because of the way this city is spread out, ASI has a variety of service areas, such as Hollywood, West Los Angeles, the city of Beverly Hills, San Fernando Valley, and downtown Los Angeles. ASI renders operations to certain select hotels in each of these areas in order to expedite service between the areas and LAX.

Of the seven centrally located points at which ASI has terminals in downtown Los Angeles, only three are served with every schedule between LAX and downtown Los Angeles. The Biltmore/Mayflower stop is one of these three.

The Biltmore Hotel has long been a center of service between LAX and downtown Los Angeles and served by its Grand Avenue entrance. Other hotels and places in downtown have been added for airport service as they have been constructed with the natural growth of the city, such as the Los Angeles Hilton, the Hyatt Regency, the Bonaventure, and the New Otani.

Boyles points out that the backbone of the entire system taken over from APT is its downtown Los Angeles routes. After one year of operation the downtown route is carrying sufficient volume to justify the continuation of the other routes formerly operated by APT, but anything that would bring about a dilution of the downtown revenue would affect the whole Los Angeles system and could readily bring about a loss for the entire system.

Upon the completion of Sims' case in chief, his attorney announced that a stipulation had been agreed upon between Sims and ASI and that there would be no need to continue the hearing. The stipulation was that Sims agreed to amend his application by withdrawing his request for authority to serve the Biltmore Hotel and with that, ASI agreed to withdraw its protest.

At the prehearing conference ASI stipulated that it does not serve the Le Parc Hotel, the Bel Air Sands Hotel, and the Hyatt on Sunset Hotel. ASI pointed out, however, that it does provide service from the Hollywood Roosevelt Hotel which is in the general vicinity.

Findings of Fact

1. Sims amended his application by withdrawing the request to serve the Biltmore Hotel.
2. ASI withdrew its protest upon Sims' oral amendment of the application.
3. Sims has the financial ability, experience, and capability to inaugurate the proposed passenger stage service to and from specified hotels in Los Angeles to LAX.

4. Public convenience and necessity require the service proposed by Sims.

5. ASI does not provide service directly from the Le Parc Hotel, the Bel Air Sands Hotel, and the Hyatt on Sunset Hotel to and from LAK.

It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity have been demonstrated and a certificate of public convenience and necessity should be granted as set forth in Appendix A of this decision attached hereto.

2. There is no competition between Sims' service authorized herein and ASI's service, as ASI does not operate between the Le Parc Hotel, the Bel Air Sands Hotel, and the Hyatt on Sunset Hotel, on the one hand, and LAX, on the other hand.

Sims 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 holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled 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 Melvin F. Sims, doing business as Sims Limousine Service, 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 of this decision.

2. In providing service pursuant to the authority granted by this order, Melvin F. Sims 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, Melvin F. Sims shall file a written acceptance of the certificate granted. Melvin F. Sims is placed on notice that if he accepts the certificate he 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, Melvin F. Sims 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) Melvin F. Sims shall maintain his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

3. The certificate granted in paragraph 1 will become effective when Melvin F. Sims has obtained permission from the local governmental agency to operate into and out of the Los Angeles International Airport. Said permission shall be filed with the Commission in this proceeding.

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

Dated FEB 18 1981, at San Francisco, California.

*Based on this record
I would also have
granted authority to
serve the Baltimore
Hotel.
Robert W. Goble*

John E. Guyon

President
Richard D. ...

Lawrence ...

Commissioners

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Appendix A

MELVIN P. SIMS
An individual doing business as
SIMS LIMOUSINE SERVICE

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
PSC - 1145

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. 92723 dated
February 18, 1981, of the Public Utilities Commission
of the State of California, in Application No. 59468.

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Appendix A

MELVIN F. SIMS
An individual doing business as
SIMS LIMOUSINE SERVICE
(PSC - 1145)

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

MELVIN F. SIMS doing business as SIMS LIMOUSINE SERVICE 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 attendant baggage between Los Angeles International Airport, on the one hand, and certain hotels in West Los Angeles and West Hollywood on the other hand, along the route described in Section 3, subject to the authority of this Commission to change or modify said route 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 operations in either direction unless otherwise indicated.

Issued by California Public Utilities Commission.

Decision No. 92723, Application No. 59468.

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Appendix A

MELVIN F. SIMS
An individual doing business as
SIMS LIMOUSINE SERVICE
(PSC - 1145)

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SECTION 2. DESCRIPTION OF WEST LOS ANGELES AND WEST
HOLLYWOOD SERVICE AREA.

Service shall be authorized from and to each of the following locations along the most convenient and appropriate streets and highways, thence along the route specified in Section 3.

| <u>Hotel:</u> | <u>Location:</u> | <u>City:</u> |
|---------------------|-------------------------|--------------|
| Le Parc Hotel | 733 N. West Knoll Drive | Los Angeles |
| Bel Air Sands Hotel | 11461 Sunset Boulevard | Los Angeles |
| The Hyatt House | 8401 Sunset Boulevard | Hollywood |

Issued by California Public Utilities Commission.
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Appendix A

MELVIN F. SIMS
An individual doing business as
SIMS LIMOUSINE SERVICE
(PSC - 1145)

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SECTION 3. ROUTE DESCRIPTION.

Beginning at The Hyatt House located at 8401 Sunset Boulevard, Hollywood, thence west along Sunset Boulevard to La Cienega Boulevard, south on La Cienega to Sherwood Street, thence west one block to West Knoll Drive, south on West Knoll Drive one-half block to the Le Parc Hotel located at 733 N. West Knoll Drive, Los Angeles. Proceed from the Le Parc Hotel to south on West Knoll Drive to Melrose Avenue, then west along Melrose Avenue to Santa Monica Boulevard, southwesterly on Santa Monica Boulevard to Wilshire Boulevard, northwesterly on Wilshire Boulevard to Beverly Glen Boulevard, north on Beverly Glen Boulevard to Sunset Boulevard, west on Sunset Boulevard to the Bel Air Sands Hotel located at 11461 Sunset Boulevard in Los Angeles. Proceed east on Sunset Boulevard for one-half block to the San Diego Freeway (I-405) South, south on I-405 to Century Boulevard, west on Century Boulevard to the Los Angeles International Airport and return to point of origin via the exact reverse route.

Issued by California Public Utilities Commission.
Decision No. 92723, Application No. 59468.