

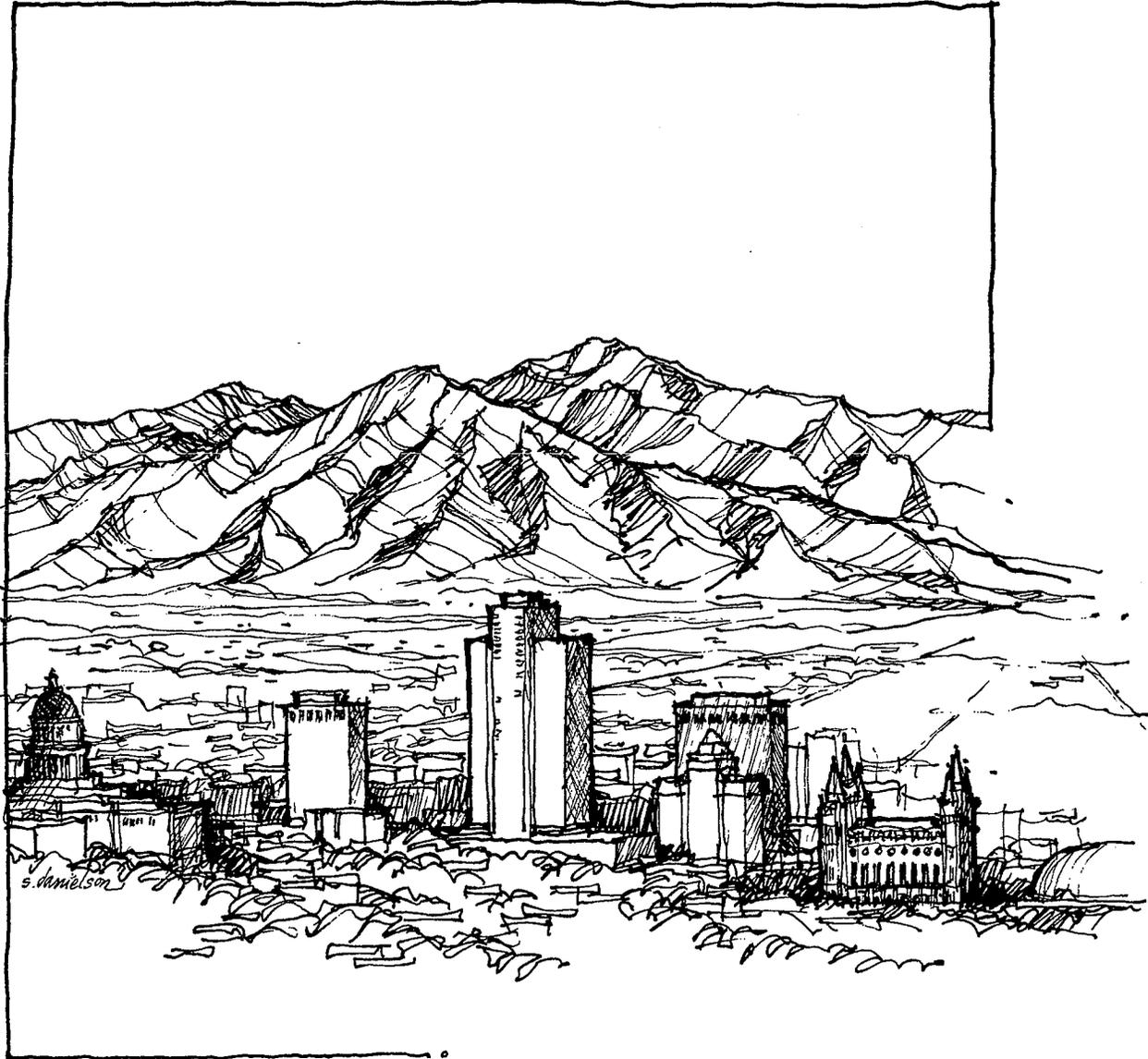
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Wasatch Canyons Transportation Study

Working Paper No. 1

Legal and Institutional Issues
Affecting
Public Transportation Improvements

March 1975



Wasatch Front Regional Council

OFFICE

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WASATCH CANYONS TRANSPORTATION STUDY

WORKING PAPER NUMBER 1

LEGAL AND INSTITUTIONAL ISSUES
AFFECTING
PUBLIC TRANSPORTATION IMPROVEMENT

Prepared For The
WASATCH FRONT REGIONAL COUNCIL
AND
SALT LAKE COUNTY

MARCH, 1975

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FOREWORD

The Wasatch Canyons Transportation Study is a cooperative effort between the Wasatch Front Regional Council and the County of Salt Lake. The Study is funded in part by the Urban Mass Transportation Administration, U. S. Department of Transportation, with local matching funds and Study coordination provided by Salt Lake County. Cooperating agencies include the Salt Lake County Planning Commission, the Salt Lake County 208 Project, the U. S. Forest Service, the Utah State Department of Transportation, the Town of Alta, and numerous other local, regional and statewide agencies and organizations. The Study is being coordinated by Salt Lake County as part of the continuing planning process for the Canyons of the Wasatch Front.

INTRODUCTION

This is the first in a series of eight working papers which will develop a transportation plan for the mountainous area in Salt Lake County immediately east and southeast of Salt Lake City. Included in this area are several major canyons which contain the popular ski resorts of Alta, Snowbird, Solitude and Brighton.

This paper examines the legal and institutional barriers inherent in the improvement of access to these ski areas. For various reasons which are beyond the scope of this paper, it is undesirable to encourage additional automobile usage in these areas. Therefore, the emphasis must necessarily be placed upon a more intensive system of public transportation than presently exists.

The Wasatch Front Regional Council, in its Regional Transit Development Program, has recommended the development of a regionwide public transit system under the unified management of the Utah Transit Authority (UTA). However, the existing private carriers maintain that the region is better served by a diversity of operators. This paper takes no position on this issue: Legal and institutional options are explored which would bring the management of transit services in the area under the control of a single operator. Alternatively, the possibility of UTA contracting out transit service to private carriers is examined.

EXISTING INSTITUTIONAL STRUCTURE

Private Operators

All public transportation between Salt Lake City (airport and downtown) and the nearby ski areas of Snowbird, Alta, Park City and Brighton is currently owned and operated by private transit companies. Principal among these are the (1) Salt Lake Transportation Company which includes the Yellow Cab Company and Gray Line Motor Tours, and (2) Lewis Brothers' stages.

Salt Lake Transportation Company (SLT Co.)

With 36 buses, 100 taxis and 6 vans, SLT Co. is the largest private transit operator in the region. From Thanksgiving to Easter, SLT Co. operates four scheduled buses per day between Salt Lake City and Alta-Snowbird. The one-way fare to the ski areas is \$3.50 from the airport and \$1.75 from downtown. Monthly passes (\$75) are also available. Travel times are approximately two hours between the airport and Alta and one hour and twenty-five minutes between Alta and downtown. Travel times to and from Snowbird are ten minutes less. These times include two or more stops at various points in Salt Lake City.

SLT Co. operates a fifty cent shuttle bus between the Snowbird Tram Building and the Alta Ski Corporation Parking Lot.

The ski areas may also be reached by taxi. SLT Co. operates taxicab service between Salt Lake City and Park City, Park West, Brighton, Solitude, Alta and Snowbird. The one-way fare is approximately \$19 from the airport and \$16.50 from downtown. This fare can be shared by up to five passengers.

Limousine - Private Car Service is also available at the following rates:

<u>RATES PER PERSON</u>	<u>FROM DOWNTOWN SALT LAKE</u>	<u>FROM AIRPORT</u>
1 person	\$14.50	\$16.00
2 persons	8.25	9.50
3 persons	6.00	7.25
4 persons	5.25	6.25
5 persons	5.00	5.50
6 persons	4.90	5.00
additional persons	2.50	2.50

For groups of ten persons or more, Gray Line Charter Bus Service is available on request.

Lewis Brothers' Stages

Lewis Bros. operates 18 buses, 12 vans and stretch vehicles and 6 school buses. They run 8 stages per day between Salt Lake City and Park City. The fare is \$2.50 between Park City and downtown and \$3.50 between Park City and the airport. Travel times vary between an hour and an hour and forty-five minutes from the airport and between forty-five minutes and an hour and fifteen minutes from downtown.

Lewis Bros. also operates a shuttle stage between Park City-Park West and Alta-Snowbird. The travel time of this shuttle varies between an hour and an hour and one-half. The fare is \$4 one-way, \$6.50 round trip and \$5.50 for a group round trip. Seats are guaranteed by reservation only.

Lewis Bros. also offers charter and limousine service to the ski areas. Limousine service to Park City, Alta and Brighton is available at the following fares:

No. of Passengers One Way Fare

1	\$17.00
2	8.50
3	6.50
4	5.50
5	4.50
6	4.00
7	4.00
8	4.00
9	3.75
10	3.50

Other Operators

In addition to SLT Co. and Lewis Bros., a number of operators transport a smaller number of passengers between Salt Lake City and the ski areas. For example, City Cab, Ute Cab, S.A.W. Transportation and other small companies operate between the city and Alta-Snowbird.

Governmental Regulation of Private Operators

Utah state law requires all common motor carriers to obtain certificates of convenience and necessity from the State Public Service Commission (PSC) prior to the commencement of operations.⁽¹⁾ A common motor carrier of passengers is defined as "any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place, persons who may choose to employ him".⁽²⁾

Exhibits 1 and 2 are the certificates of convenience and necessity of the Salt Lake Transportation Company and Lewis Brothers' Stages, Inc., respectively. These certificates authorize SLT Co. to operate between Salt Lake City and Brighton and Alta, and Lewis Bros. to operate between Park City and Alta.

In order to obtain a certificate of convenience and necessity, an operator must file an application with the PSC. The PSC will conduct a hearing to determine whether the public convenience and necessity requires the proposed service. At the hearing any interested party, including competing common

(1) Utah Code, Section 54-6-5, Intrastate Commerce-Certificate of Convenience and Necessity.

(2) Utah Code, Section 54-6-1

carriers, may offer testimony for or against the granting of the certificate.

Before granting a certificate, the PSC will consider the following four factors:

- 1) The financial ability of the applicant to properly perform the service sought under the certificate;
- 2) The character of the highway over which the common motor carrier proposes to operate;
- 3) The effect on the traveling public using the highway; and
- 4) The existing transportation facilities in the territory proposed to be served.

The PSC regulates the operations, safety and fare structures of all common motor carriers to which it has issued a certificate. And although the Commission is charged with "prevent(ing) unnecessary duplication of service"⁽³⁾ between carriers, a certificate does not give an operator the right to be free from competition. The PSC has discretion to provide for a regulated monopoly or for regulated competition.⁽⁴⁾

For a certain class of carrier, it is not necessary to obtain a certificate from the PSC in order to transport passengers between Salt Lake City and nearby ski areas. State Law ⁽⁵⁾ provides that licensed taxicabs operating within a fifteen mile radius of the limits of any city or town are exempt from regulation by the PSC. Since the ski areas are within fifteen miles of Salt Lake City as well as a number of smaller cities, small taxicab companies compete with SLT Co. and Lewis Bros. without the necessity of seeking a certificate from the PSC.

(3) Utah Code, Section 54-6-4, Common motor carriers - Powers and duties of Commission.

(4) Union Pac. R. Co. v. Public Service Comm., 103 U.459, 135 p. 2d 915.

(5) Utah Code, Section 54-6-12, Exceptions from provisions of act.

If any of these companies sought a PSC certificate, SLT Co. and Lewis Bros. could challenge their applications, but because these companies are licensed locally, the PSC has no jurisdiction to intervene.⁽⁶⁾ However, these carriers cannot solicit or pick-up passengers within the corporate limits of Salt Lake City unless they have obtained a certification of public convenience and necessity from the City Board of Commissioners. If the taxicab operator is licensed in another jurisdiction, it is not barred from operating within Salt Lake City where the trip originates outside city limits.⁽⁷⁾

Public Transportation Services

The Utah Public Transit District Act⁽⁸⁾ was enacted into law in 1969. The Act enables localities to incorporate a public transportation district if their legislative bodies determine that the public convenience and necessity so require. Incorporation would be initiated by a county or municipal ordinance, and approved in a popular election.

To date, Weber, Davis and Salt Lake Counties (less three municipalities) have joined the Utah Transit Authority (UTA). UTA is not subject to the jurisdiction of the PSC except in the area of safety regulation.⁽⁹⁾

(6) Public Service Commission of Utah, Case #6987, SLT Co. v. Courtesy Transportation Co., Ski Utah Transportation Co. and S.A.W. Transportation Co.

(7) Section 43-2-1. Revised Ordinances of Salt Lake City, Utah, 1965.

(8) Utah Code, Sections 11-20-1 through 11-20-58.

(9) Utah Code, Section 11-20-26.

UTA possessed very limited financial powers until recently. In 1974, State law was amended⁽¹⁰⁾ to allow any county within UTA to impose a $\frac{1}{4}\%$ sales tax to fund a public transportation system. Voters in Weber and Salt Lake Counties approved such a tax and it became effective on January 1, 1975. Since the imposition of the sales tax, transit fares have been lowered to 15 cents and UTA applied for a capital grant from the Urban Mass Transportation Administration (UMTA) of the Federal government which would more than double the size of the present fleet from approximately 150 buses to more than 300.

UTA lacks the legal authority to transport passengers between the airport, downtown Salt Lake City and the ski areas. UTA cannot serve Park City/Park West because these areas are in Summit County which is outside of UTA's territorial jurisdiction. UTA service to the other ski areas is prohibited by the following provision in the Utah Public Transit District Act:

"The District shall not establish, construct, complete, acquire, operate, extend or reroute (all of the foregoing being hereinafter referred to be the word "establish") directly or indirectly, either itself or by lease or contract with any other person or persons or otherwise any public transit service or system or acquire facilities necessary or incidental thereto in manner or form that may divert, lessen or compete for the patronage or revenues of an existing system or a publicly or privately owned public utility furnishing like services or furnishing facilities necessary or incidental to the construction or operation of transit facilities without the consent of the utility.⁽¹¹⁾ (emphasis added).

Under this provision, UTA is effectively barred from operating in many areas of Salt Lake County because to do so would necessitate engaging in competition with existing private carriers. Areas where UTA buses are prohibited from operating include routes between the airport, downtown and the ski areas.

(10) Utah Code, Sections 11-9-4 and 11-9-6

(11) Utah Code, Section 10-20-17, Competition with existing publicly or privately owned public utilities prohibited.

UTA may offer to purchase the operating rights of private carriers, whose territory it wishes to service. In 1973, UTA purchased the operating rights of Ogden Bus Lines, Wasatch Motors, Inc., Metro Transportation, Inc. and Lake Shore Motor Coach Lines, Inc. for the sum of one dollar. Other private operators, even those which are running losing operations, are placed in a dominant bargaining position by the statute in their negotiations with UTA over the purchase price of their operating rights. UTA is under public pressure to provide adequate service throughout the district's territory. However, UTA cannot accomplish this goal without the consent of the private operators, and this consent must be purchased at a price largely dictated by the existing operator. The seller is allowed to dictate the purchase price because UTA is under pressure to buy while the seller is not under any similar pressure to sell.

UTA's dilemma is illustrated by current negotiations between UTA and Lewis Bros. regarding the purchase of Lewis Bros.' certificate of convenience and necessity to operate in the Granger, Hunter, Kearns and Magna areas. Residents of these areas pay the additional one-quarter cent sales tax to support public transit, and they believe that they are entitled to UTA service. Currently, it costs between 60 to 75 cents to reach Salt Lake City from these areas. UTA would provide this service at 15 cents per ride. Therefore, UTA is under public pressure to purchase Lewis Bros.' certificate of convenience and necessity to operate in these areas. Lewis Bros. has been losing money since 1962 by operating the these areas, and has had to subsidize these operations with revenue from charter services. It might, therefore, be assumed that Lewis Bros. would be eager to relinquish its certificate for nominal consideration. This, however, is not the case. Lewis Bros. offered to sell its certificate to UTA for \$366,000, the sum of Lewis Bros. operating

losses in these areas from 1962 to 1974. This \$366,000 would not buy any buses or equipment, but would simply entitle UTA to operate in an area where Lewis Bros. has sustained heavy losses for 13 straight years. UTA offered to pay \$35,000 for the certificate and Lewis Bros. lowered its asking price. Recently both parties have agreed to proceed with the sale of the operating rights, with the question of the purchase price being determined by binding arbitration.

However, the essential problem remains: unless UTA can obtain the consent of existing carriers to purchase their certificates, certain areas of Salt Lake, Weber and Davis Counties, including the ski areas of Brighton and Alta-Snowbird will remain unserved by public transportation.

Despite UTA's public status, it has been placed in a disfavored legal position. If UTA were a newly formed private carrier desirous of serving the ski areas, it could simply apply to the PSC for a certificate to compete with the existing carriers. However, because UTA is public, it cannot apply for a certificate, but instead must pay a heavy price for the right to compete.

OPPORTUNITIES FOR EXPANSION OF PUBLIC TRANSIT SERVICE

There are four principal ways in which UTA could expand its operations in order to provide service to the ski areas:

- Obtain consent from existing private carriers.
- Expand its service area to include any route where a private carrier's certificate of convenience and necessity has been revoked.
- Condemn the certificates of convenience and necessity of existing private carriers by use of the power of eminent domain.
- Contract out for service.

Each of these approaches has its own unique set of advantages and disadvantages. This section of the paper will analyze and evaluate each of these options:

Obtain "Consent" From Private Carriers

This option has been discussed previously. It would require UTA to bargain with private carriers in order to secure their certificates of convenience and necessity for a fair price.

This approach operates within the framework of the existing UTA statute, and negotiations could begin in the near future. The major disadvantage is that UTA would have very little bargaining power, while the private carrier would be able to reap a windfall profit at public expense.

If both UTA and the private carrier are in agreement, the question of the purchase price of the certificate can be determined by binding arbitration. In the case of the sale of Lewis Bros.' certificate to operate in Granger, Hunter, Kearns and Magna to UTA, the purchase price will be decided by an arbitration board composed of three persons. Each party will select one arbitrator and the two arbitrators will choose the third arbitrator. The

board will consider evidence of the value of the certificate and will render its determination by majority vote.

This type of arbitration does not necessarily represent a solution to the extension of public transportation to the ski areas. This is because binding arbitration is not possible without the consent of the private carriers, both to sell their operating rights to UTA and to allow an arbitration board to determine the value of these rights. If the board does not grant Lewis Bros. what the other private carriers consider an adequate price, their interest in utilizing the arbitration procedure may be minimal.

Revoke Existing Certificates

Certificates of Convenience and necessity granted by the PSC may remain in effect indefinitely. However, state law provides that "the Commission may at any time for good cause, and after notice and hearing, suspend, alter, amend or revoke any certificate, permit or license issued by it hereunder."⁽¹²⁾

If the certificate of a private carrier were revoked, UTA would be legally able to institute service in the area affected by the revocation. Although neither Utah law nor PSC regulations expressly define the grounds for revoking a certificate, the general rule is as follows:

A certificate of public convenience and necessity of a motor carrier may be revoked for good cause shown, such as for failure to comply with statutes or with rules or orders of the Commission, for abandonment of service, or for other failures or refusal to operate within the terms of the certificate.⁽¹³⁾

PSC files contain a number of letters written by transit users com-

(12) Utah Code, Section 54-6-20, Revocation of permits and licenses

(13) 60 Corpus Juris Secundum, Section 96 (2), Revocation or Suspension of Certificates, b. Grounds for Revocation.

plaining about the quality of service offered by various private carriers. These letters claim, for instance, that the buses of certain carriers are unsafe, that the brakes go out frequently, that they are dirty and in poor mechanical condition. There are also allegations that these buses do not always run and that when they do, they are almost always behind schedule.

Although PSC rules provides that the "Commission may initiate formal or investigation proceedings upon any matter arising out of an informal complaint,"⁽¹⁴⁾ the PSC has elected to treat such complaints as informal matters. Whether or not these complaints were resolved to the satisfaction of the transit users is unknown. However, the similarity between the types of complaints expressed in letters written years apart indicates that formal or investigation proceedings regarding various private operators may be in order.

Legally, the PSC has considerable discretion in deciding whether to revoke the certificate of a private carrier. A complaining party cannot successfully challenge the Commission's decision in court unless he or she can prove that the Commission acted arbitrarily or capriciously in arriving at its decision.

However, in the case of abandonment or discontinuance of service, the PSC has surrendered some of its discretion by promulgating the following rule:

"Discontinuance of service of a common or contract motor carrier whether with or without notice to the Commission and the public, shall be deemed a forfeiture of all rights secured under and by virtue of any order or permission to operate issued by the Commission, provided, however, that the Commission may permit resumption of operation on a proper showing that the carrier was not responsible for the failure to give service, and on a finding by the Commission that the service is necessary."⁽¹⁵⁾

(14) Rules of Practice and Procedures Governing Formal Proceedings and Forms Governing Matters before the Public Service Commission of Utah. Rule 10 - Informal Complaints.

(15) Motor Carrier Rules and Rules and Regulations NO. 3, Public Service Commission of Utah, Rule No. V. Abandonment or Discontinuance of Service.

If a carrier fails to provide adequate service or violates PSC rules and regulations, it retains its certification until it is withdrawn by the Commission after a hearing. However, should a carrier discontinue service, this action operates as a "forfeiture of all rights" under the certificates. Apparently, no formal hearing is required in the case of an abandonment or discontinuance of service, and no PSC action is necessary. Therefore, if a private carrier discontinues service, it forfeits its rights under its certificate, and UTA is permitted to operate in the service area which the private carrier has abandoned.

In December 1974, SLT Co. informed the PSC that it wished to suspend operations of its regular route passenger service between Salt Lake City and Salt Lake International Airport as a common carrier as of January 1, 1975.⁽¹⁶⁾ The PSC replied that such a discontinuance of service would be deemed a forfeiture of all rights issued by the Commission.⁽¹⁷⁾

Although SLT So. has not suspended this service, it has defaulted on its concession agreement with the Airport and this agreement has been terminated by Salt Lake City.⁽¹⁸⁾ Despite a local statute⁽¹⁹⁾ requiring this agreement as a precondition to performing revenue producing commercial activities at the

(16) Letter from Charles A. Boynton to the Public Service Commission of Utah. December 26, 1974.

(17) Letter from Ronald E. Casper (PSC Secretary) to Charles A. Boynton. December 30, 1974.

(18) Letter from Murray A. Bywater (Airport Manager) to the Public Service Commission of Utah.

(19) Section 2-2-7, Revised Ordinances of Salt Lake City, Utah.

Airport, SLT Co. has continued to operate its Airport service. The City has given SLT Co. a Notice to Cease and Desist operations of service to the Airport. If SLT Co. is operating in violation of the law, this would seem to constitute the "good cause" necessary for the PSC to revoke SLT Co's certificate.

In January 1975, the co-manager of the Brighton Ski Area charged in a letter to the PSC that SLT Co. had discontinued weekend service between Salt Lake City and Brighton.⁽²⁰⁾ Such abandonment would enable UTA to legally commence weekend service to and from Brighton, since SLT Co. would be deemed to have forfeited its rights under its certificate.

Invoke Power of Eminent Domain

Normally when a public agency desires to acquire private property for a public purpose, the public agency condemns the private property in a legal action if all other attempts at a negotiated settlement fail. The private party is compensated in money for the value of the property taken. Any dispute as to the value of the property is decided in court.

Thousands of federal, state, regional and local agencies have been legislatively granted the power of eminent domain. This power has received its widest application in the field of transportation. State highway departments have made extensive use of eminent domain in order to obtain right-of-way for state and federal highways.

A review of transit district legislation in a number of western states (Exhibit 3) shows that transit districts in every state surveyed except Utah

(20) Letter from Gilbert W. Jensen to Frank S. Warner (PSC Chairman)
January 10, 1975.

have the power of eminent domain.⁽²¹⁾ This power allows transit districts to obtain needed land for stations and service facilities, right-of-ways for improved service and property and franchise rights of private carriers.

The Utah legislature is currently considering an amendment to UTA's legislation which would grant UTA the power of eminent domain (Exhibit 4). Should this amendment pass, the impasse over the purchase price of the certificates of convenience and necessity would be over. The power of eminent domain does not allow the condemning authority to be final arbiter of the value of the acquired property. The owner of the property rights is constitutionally required to receive "just compensation" for this property.

Just compensation is the monetary equivalent of the value of the property at the time it is acquired pursuant to an exercise of the sovereign power. Unlike a negotiated agreement between UTA and a private carrier where the parties are of unequal bargaining strength, the concept of just compensation embodies the principle that the purchase price must be fair to the public as well as to the owner of the property taken.

The courts generally utilize one or more of the following three tests in determining what constitutes just compensation⁽²²⁾:

- (1) Comparable Sales
- (2) Income from Property
- (3) Replacement Cost

(21) Section 40-118, Arizona Revised Statutes;
Sections 25703, 28953-4, 30503, 40162, 50162, 70162, 90402,
96002, 98213-4, 100131, 101177-9 and 102242
California Public Utilities Code;
Section 89-20-18 (1), Colorado Revised Statutes;
Section 14-53-4 (g), New Mexico Statutes;
Section 267.200, Oregon Revised Statutes;
Section 35.58.240(2), Revised Code of Washington

(22) Condemnation Appraisal- Text and Reference, Watson (1959), p.14.

In determining the fair market value of a franchise or a certificate of convenience and necessity, the ability of the utility to produce income is a factor which cannot be ignored. Whether or not the utility operates at a profit is an element which must be reflected in the valuation. (23)

The power of eminent domain is one which allows a public transportation agency to better perform the task for which it was created. At the same time, the concept of just compensation assures that the rights of the individual and of private enterprise are respected. For this reason, granting UTA the power of eminent domain is preferable to requiring that UTA obtain consent to acquire private carriers or that UTA attempt to get the certificates of private carriers revoked. Under the consent option, the private carriers could potentially reap windfall profits at the expense of the taxpayer, while under the revocation alternative, the private carriers would receive no compensation at all.

Contract Out For Service

UTA is legally empowered to contract with a private carrier to provide a specified level of transit service. Section 11-20-16 allows UTA:

(11) To hire, lease, or contract for the supplying of, or management of, any facilities, operations, equipment, services, employees, or management staff, or any operator, whether the district or operator owns or leases them or is the employer of such employees or management staff and to provide for subleases or subcontracts by the operator upon terms and conditions deemed in the public interest. The word "operator" as used in this section means any city or public agency or any person, firm or private corporation engaged in the transportation of passengers for hire. The operations and rates of an operator for the district shall not be subject to the jurisdiction of the Utah public service commission.

(23) Nichols on Eminent Domain, Volume 5, Section 19.31(2).

Under the "contracting out" option, the private carriers which presently serve the ski areas could continue to do so if they expanded their operations and lowered their fares. The private carriers would own the equipment and facilities and would operate and manage the system. UTA would subsidize the service in order to allow the private carriers to expand operations, lower fares and receive a fair return on their investment.

To the extent that the operating costs of the private carriers were lower than those of UTA, this option would be beneficial to the public as well as to the private carriers. However, it is probable that this operating cost differential would be minimized by federal requirements should the private carriers contract with UTA to provide transit service.

UTA currently receives federal assistance in the form of capital and formula grants. ⁽²⁴⁾Section 13(c) ⁽²⁵⁾of the Urban Mass Transportation Act of 1964, as amended, requires that as a condition to receiving capital and/or formula grants, the Secretary of Labor must make "fair and equitable arrangements... to protect the interests of employees affected by such assistance". These arrangements must include provisions protecting individual employees against a "worsening of their positions with respect to their employment".

UTA employees are represented by the Amalgamated Transit Union. The practical effect of Section 13(c) would be that any private carrier to which UTA contracted out service would have to sign an agreement to unionize their work force. If these private carriers had to pay union wage scales, any differential between their operating costs and those of UTA would be slight. In this case, the benefits to the public of such an arrangement would be minimal.

(24) 49 United States Code 1601, 1604.

(25) 49 United States Code 1609(c).

EXHIBIT I

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Case No. 2221
Certificate No. 518-Sub 1

SALT LAKE TRANSPORTATION COMPANY
Yellow Cab Company
Gray Lines Motor Tours

Issued: November 19, 1952

IT IS ORDERED, That the applicant, Salt Lake Transportation Company, a Utah Corporation, be and it hereby is granted Certificate of Convenience and Necessity No. 518-Sub 1, authorizing it, the said applicant, to operate between Salt Lake City and Brighton, Utah, and between Salt Lake City and Alta, Utah, over both regular routes, with return trips following the same route; that this authority is issued in lieu of Certificate of Convenience and Necessity No. 835 heretofore issued by the Commission to Utah Transportation Company, Inc. canceled and vacated by the Commission.

Case No. 4529-Sub 1
Contract Carrier Permit No. 474

Issued: August 4, 1964

IT IS FURTHER ORDERED, That the application, as amended, of Salt Lake Transportation Company, a Utah Corporation, be and it hereby is granted and Contract Carrier Permit No. 474, is issued to Salt Lake Transportation Company on June 17, 1953, be and it is amended to read as follows:

"That Salt Lake Transportation Company be and is hereby granted Contract Carrier Permit No. 474, to operate as a contract motor carrier of passengers of United Airlines, Western Airlines, Frontier Airlines, Bonanza Airlines and of any other person or company occupying similar status, together with the baggage of such passengers, also employees of said companies and airport employees, over the following described routes between Salt Lake City Municipal Airport and indicated areas of Salt Lake City, Utah.

"North Temple between the Salt Lake City Municipal Airport and Main Street; Main Street between North Temple and South Temple; West Temple between North Temple and Sixth South; Main Street between Sixth South and Fourth South; South Temple. Fourth South and Sixth South and Sixth South between West Temple and Main Streets. Such service to be limited, however, to pickup and delivery on the side of the street being traveled by the airport limousine on the route followed over such highways, including service to all motels, hotels, and other points fronting on said street as aforesaid.:

Case No. 5447
Interstate Carrier License No. 648

Issued: April 8, 1964

SALT LAKE TRANSPORTATION COMPANY

Case No. 1896: Order authorizing use of additional name: Checker Cab Company
Case No. 5674
Issued: March 15, 1966

Case No. 1896-Sub 5
Certificate No. 538-Sub 5

Issued: January 20, 1967
Reissued: April 6, 1967

NOW, THEREFORE, IT IS HEREBY ORDERED, That Certificate of Convenience and Necessity No. 538-Sub 5, be and the same is hereby corrected and reissued to Salt Lake Transportation Company, to operate as a common motor carrier by motor vehicle for the transportation of passengers and their baggage in the same or separate vehicles, in chapter operations, and in special operations in sightseeing or passenger tours: between all points and places within a 26 air-mile radius of the city limits of Salt Lake City, Utah, including Salt Lake City, but excluding all points in Weber County and in Utah County beyond such 26 mile radial area, and from said radial area to all points and places in the State of Utah, and return, over predetermined routes and/or irregular routes, excluding traffic originating or terminating at Provo, Utah. Restricted against service in scheduled operations exclusively over principal highways of a type performed by scheduled regular route bus lines in passenger, baggage and express transportation only. Operations to be conducted under the name of applicant or Gray Line Motor Tours.

Case No. 1896-Sub 6
Certificate No. 538-Sub 6

Issued: January 31, 1967

NOW, THEREFORE, IT IS HEREBY ORDERED, That Salt Lake Transportation Co. be and it is hereby issued Certificate of Convenience and Necessity No. 538-Sub to operate as a common carrier by motor vehicle of persons and property as follows:

- (a) The transportation of passengers and accompanying baggage at regular taxicab rates in licensed taxicabs, between Salt Lake County and any point in the State of Utah, and between points in Salt Lake County.
- (b) The transportation on specific single order for quick or emergency delivery of flowers, messages, medicines, and other small packages, at regular taxicab rates for ahuling passengers, in licensed taxicabs, between all points in Salt Lake County.
- (c) The transportation by separate motor vehicle of baggage in connection with the transportation of passengers between Salt Lake County and any point in the State of Utah, and between all points in Salt Lake County.
- (d) The transportation of passengers and accompanying baggage in especially hired automobiles with driver, not exceeding eight persons including the driver, between Salt Lake County and any point in the State of Utah, and between all points in Salt Lake County.

(e) The transportation of passengers and accompanying baggage by automobiles not exceeding eight persons, without driver furnished, on a Drive-It-Yourself basis, between Salt Lake County and any point in the State of Utah, and between all points in Salt Lake County.

(f) (Canceled April 4, 1968)

(g) The maintenance of a local light transfer service for the transportation of baggage and other items of personal property between any points within the limits of a ten-mile radius of the limits of Salt Lake City and not on routes of regular route common motor carriers of property outside Salt Lake City.

(h) The operation and maintenance of an automobile delivery service within the limits of Salt Lake City licensed by said City, and

(i) The operation and maintenance of automotive vehicle wrecker service between Salt Lake City and any point in the State of Utah and between all points in Salt Lake County.

(j) Applicant shall not engage in the movement of passengers or property over regular routes or on regular schedules but that the service rendered, with such exception, shall be an on-call service pursuant to rates for such service to be filed with the Commission.

Case No. 1896-Sub 8
Certificate No. 538-Sub 8

Issued: April 21, 1970

NOW, THEREFORE, IT IS HEREBY ORDERED, That Contract Carrier Permit No. 474 issued in Case No. 4529 Sub 1, be and it hereby is canceled and that a copy of this order be filed and made effective in said case.

IT IS FURTHER ORDERED, That Certificate of Convenience and Necessity No. 538 Sub 8 be and it hereby is issued to applicant Salt Lake Transportation Company, a Utah corporation, authorizing operations as a common motor carrier of passengers and accompanying baggage over the following described routes between the Salt Lake City International Airport and indicated areas of Salt Lake City, Utah:

"North Temple between the Salt Lake City International Airport and Main Street; Main Street between North Temple and South Temple; West Temple between North Temple and Sixth South, Main Street between Sixth and Fourth South; South Temple, Fourth South and Sixth South between West Temple and Main Street. Such service to be limited, however, to pickup and delivery on the side of the street being traveled by the airport limousine on the route followed over such highways, including service to all motels, hotels, and other points fronting on said street as aforesaid."

EXHIBIT 2

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Case No. 5733
Certificate No. 1565

Issued: July 15, 1966

LEWIS BROS. STAGES, INC.
A Utah Corporation
360 South West Temple
Salt Lake City, Utah 84101

IT IS FURTHER ORDERED, That Certificate of Convenience and Necessity No. 1565, be and the same is hereby issued to Lewis Bros. Stages, Inc. a Utah corporation,

(1) to operate as a common carrier by motor vehicle for the transportation of passengers, baggage, and express from Salt Lake City to Park City, Utah, and return over U.S. Highway 40 serving all intermediate points. The express shipments to be limited not exceeding 150 pounds for any one package or shipment and capable of being carried conveniently on passenger vehicles without inconvenience or hazard to passengers.

(2) to operate as a common carrier by motor vehicle for the transportation of passengers, baggage and express in intrastate commerce between Salt Lake City, Utah, and Wendover, Utah, and return over Highway No. 40.

(3) to operate as a common carrier by motor vehicle for the transportation of passengers, their baggage and express over both regular and irregular routes between Salt Lake City, Utah, and Tod Park, Tooele County, Utah, serving all intermediate points including Redwood Road, Granger, Hunter, Baccus Junction, Magna, Magna Mill, Garfield, Garfield Smelter, Sunset Beach Junction, Black Rock Junction, Lakepoint, Mills Junction, Erda, and Tooele, and the off route points north and south of 3500 South in Salt Lake County, West of 2000 West, including Kearns, Utah. The express service hereby authorized shall be limited to shipments carried in the passenger carrying equipment of applicant and shall also be limited to shipments of 100 pounds or less, and the manner of express handling on any bus shall be such as will not interfere with the comfort and safety of passengers.

(4) to operate as a common carrier by motor vehicle in the transportation of passengers and their baggage and express, including motion picture films and newspapers in shipments not to exceed 100 pounds each, as follows:

(a) From Salt Lake City over U. S. Highway 91 to junction of U. S. Highway 91 and U.S. Highway 50-6 near Santaquin and thence over U. S. Highway 50-6 to the Utah-Nevada State Line serving all intermediate points and the off route points of Leamington, Oak City, Abraham, Woodrow, Sutherland, Oasis, Deseret and Garrison, Utah, and return over the same route, provided, however, that all traffic originated at Salt Lake City, and Santaquin and points intermediate between Salt Lake City and Santaquin shall be destined to points west and south of Santaquin, and all traffic destined to Santaquin and Salt Lake City and points intermediate between Santaquin and Salt Lake City shall originate west and south of Santaquin.

(b) Transport passengers in special and charter parties originating on U. S. Highway 50-6 between the Utah-Nevada State Line and U.S. Highway 91, near Santaquin, Utah, and all intermediate points and the off-route points of Leamington, Oak City, Abraham, Woodrow, Sutherland, Oasis, Deseret and Garrison, Utah, to all points and places in the State of Utah in round trip service.

(c) The express service hereby authorized shall be limited to shipments carried in the passenger-carrying equipment of applicant and shall also be limited to shipments of 100 pounds or less, and the volume of express handled on any bus shall be such as shall not interfere with the comfort and safety of passengers.

(5) To operate as a common motor carrier of self-organized groups of persons in special and charter round trip service, originating on routes served by applicant in its regular route common carrier operations, in accordance with paragraphs 1, 2 and 3 above, to points within the State of Utah providing that this certificate shall not be construed to permit applicant to establish transportation services for unorganized groups, nor to establish transportation services for unorganized groups, nor to establish any regular schedule or regular route in said charter round trip services.

Case No. 5733 Sub 2
Certificate No. 1565 Sub 2

Issued: January 12, 1971

NOW, THEREFORE, IT IS HEREBY ORDERED, That paragraph five of the applicant's Certificate of Convenience and Necessity No. 1565 relating to special and charter and round trip be and is hereby canceled and reissued and rewritten as follows:

LEWIS BROS. STAGES, INC.

Case No. 5733

Certificate of Convenience and Necessity No. 1565 Sub 2 be and is hereby issued to Lewis Bros. Stages, Inc., to operate as a common motor carrier of passengers and their baggage on call in limousine and charter type of service between points along the routes it is authorized to serve, including terminal points, on a regular-route basis in paragraphs 1, 2 and 3 of its original authority on the one hand and points within the State of Utah on the other; such movement provided, however, such service is restricted against the establishment of regular schedule or regular route or special sightseeing type of service.

Case No. 5733 Sub 3
Certificate No. 1565 Sub 3

Issued: August 15, 1973

IT IS HEREBY ORDERED, That Certificate of Convenience and Necessity No. 1565 Sub 3 be, and is hereby issued to Lewis Bros. Stages, Inc. authorizing it to operate as a common carrier in intrastate commerce in the transportation of passengers, their baggage and personal effects and express, between Park City, Utah, and Alta, Utah over regular routes, as follows:

From Park City, Utah, via Utah Highway 224 to Kimballs' Junction; thence over Interstate 80 to the mouth of Parley's Canyon; thence over Interstate 215 and Utah Highway 210 to the mouth of Little Cottonwood Canyon; then over Utah Highway 210 to Alta, Utah, and return over the same routes, serving those points intermediate to Park City and Summit Park, Utah, and those points intermediate to Snowbird and Alta, Utah.

EXHIBIT 3

EMINENT DOMAIN POWERS OF TRANSIT DISTRICTS IN VARIOUS WESTERN STATES

1) Washington:

35.58.240 Powers Relative to Transportation

If a metropolitan municipal corporation shall be authorized the function of metropolitan transportation, it shall have the following powers in addition to the general powers granted by this chapter:

• • •
(2) To acquire by purchase, condemnation gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities and properties within or without the metropolitan area, including systems of surface, underground or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks or other people moving systems, passenger terminal and parking facilities and properties and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities.

• • •

2) Oregon:

(Powers)

267.200 Existence, Status and General Powers of Districts

A district shall constitute a municipal corporation of this state and a public body, corporate and politic, exercising public power. It shall be considered a unit of local government for the purposes of ORS 190.003 to 190.110, a public employer for the purposes of ORS 236.610 to 236.650, and a political subdivision for the purposes of ORS 305.620. It shall be entitled to tax refunds as allowed under ORS 319.350 and 319.831 to incorporate cities. It shall have full power to carry out the objects of its formation and to that end may:

• • •

(2) Acquire by condemnation, purchase, lease, devise, gift or voluntary grant real and personal property or any interest therein, located inside the boundaries of the district and take, hold, possess and dispose of real and personal property purchased or leased from, or donated by, the United States, or any state, territory, county, city or other public body, nonprofit corporation or person for the purpose of providing or operating a mass transit system in the district and aiding in the objects of the district.

- 3) California: Each of California's twelve transit districts have the authority to acquire property by means of the power of eminent domain. The eminent domain provision of the Marin County Transit District is similar to many of these statutes:

Public Utilities Code

Section 70162. Eminent Domain

The district shall have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property within the boundaries of the district for public use. The district may take any property necessary or convenient to the exercise of the powers granted in this part whether the property is already devoted to the same use or otherwise. In the proceedings, venue, and trial relative to the exercise of the right, the district has all the rights, powers and privileges of a county and all rights, powers and privileges conferred in this part. The district shall proceed in the name of the district in condemnation proceedings. The district in exercising such power shall, in addition to the damage for the taking, injury or destruction of property, also pay the cost of removal, reconstruction or relocation of any structure, railway, mains, pipes, conduits, cables or poles of any public utility which is required to be moved to a new location. Notwithstanding any other provision of this part or any other law, no property in public use shall be taken by the district except upon a finding by a court of competent jurisdiction that the taking is for a more necessary public use than that to which it has already been appropriated.

- 4) Arizona:

40-1117. Condemnation Privilege

The authority may use the provisions of law relating to eminent domain. No provision for eminent domain given to the authority by this section or by any provision of law may be exercised against property or any franchise of a common carrier of passengers when a territory is being adequately served by such common carrier of passengers under authority of law. Such condemnation proceedings shall only be applicable to property located within the area of the authority.

- 5) New Mexico:

14-53-4. Powers of Authorized Municipality

G. Power of Eminent Domain:

- (1) is granted to a qualifying municipality for the purpose of acquiring lands and buildings necessary to provide efficient public transit;
- (2) is granted to a qualifying municipality for the purpose of acquiring lands, equipment, buses, contracts and other assets of persons holding franchises for public transit therein; and
- (3) may be exercised as provided by law.

6) Colorado:

69-20-18. Additional Powers of District

(1) (a) In addition to any other powers granted to the district in this article, the district shall have the following powers:

• • •

(e) To condemn property for public use.

EXHIBIT 4

PROPOSED AMENDMENT TO THE UTAH PUBLIC TRANSIT DISTRICT ACT

11-20-16. Any district incorporated under this act shall have and exercise power:

• • •

(13) To acquire by eminent domain any real or personal property, any interest in property, any improvement upon property, or any right, permit, certificate of license granted by the public service commission of the state of Utah or its successor to any person, firm, partnership, corporation, association, company, or other entity to operate as a common motor carrier of passengers or a contract motor carrier of passengers. When the power of eminent domain is exercised under the provisions of this chapter and the party whose property is affected contests the matter in the district court, the court may, in cases where the amount of the award exceeds the amount offered, award in addition to his just compensation, costs, including a reasonable attorney's fee as determined by the court. The court, or jury in cases tried before a jury, may also award a reasonable sum as compensation for the costs and expenses, if any, of relocating the owner whose property is acquired.