

Decision No. 32234

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BURLINGTON TRANSPORTATION COMPANY, a)
corporation, for a certificate of)
public convenience and necessity to)
operate passenger stage service as a)
common carrier between San Francisco)
and/or Oakland on the one hand and)
Long Barn, Cold Springs and/or Pine-)
crest on the other hand.)

Application No. 23234

HARRY A. ENCELL, for Applicant.
H. C. LUCAS and H. D. RICHARDS, for Pacific
Greyhound Lines, Protestant.

BY THE COMMISSION:

O P I N I O N

By application filed January 11, 1940, Burlington Transportation Company, a corporation, seeks a certificate of public convenience and necessity authorizing operation as a common carrier of passengers and baggage, between San Francisco and Oakland on the one hand and Long Barn, Cold Springs, and Pinecrest on the other hand, via Dublin, Tracy, Manteca, Oakdale and Sonora, with no service to or from intermediate points on such route.

A public hearing was held on the application at San Francisco, January 23, 1940, before Examiner Differding, at which time evidence was received and the matter duly submitted, subject to filing of concurrent briefs not later than five (5) days thereafter. The Pacific Greyhound Lines was the only party which opposed the granting of the application.

Applicant, organized under the laws of Illinois, conducts an interstate common carrier operation by motor vehicle, of passengers, baggage, express and newspapers, between California and mid-west points. During the 1937-1938 winter season applicant also conducted special or charter operations for skiing parties between the points herein proposed to be served, but did not so operate the following season (1938-1939) because of the lack of sufficient snow for skiing purposes.

In the application it is alleged in effect that a great number of persons residing in the San Francisco Bay area have become interested in the winter sport of skiing; that many other interested persons desire to have instruction in the use of skis; and that many of such persons choose week-end periods to travel to the skiing fields and desire a direct through service.

Applicant proposes to render such a service to the skiing areas east of Sonoma at or near Long Barn, Cold Springs, and Pinecrest by operating one round trip schedule each Sunday to whichever one of said three points shall have the most favorable skiing conditions. The proposed schedule does not provide for service when there is insufficient snow for skiing purposes. The proposed individual round-trip fare is \$4.50, which includes instruction in the use of skis by a qualified instructor. Tickets are to be on sale daily up to 12:00 o'clock noon of each Saturday preceding the Sunday trip. One 33-passenger bus now held at San Francisco for emergency use in connection with interstate operations is available for the proposed service. Also additional equipment can be secured from applicant's Los Angeles terminal which will necessitate bringing same to San Francisco or Oakland when necessary to handle traffic. The maximum distance between the points involved is 330 miles for the round trip. Based upon applicant's experience, it was testified, the maximum cost of rendering the proposed service will be 14 cents per bus mile and this figure includes the expense of employing the services of a qualified ski instructor. The latter party will receive compensation of 50 cents for each passenger carried by applicant out of the \$4.50 round-trip fare to be charged, leaving \$4.00 to cover the transportation service of applicant. Although the feature of a ski instructor is discussed quite liberally in the record we are concerned primarily with the transportation service.

A witness for applicant testified that many requests for service as proposed in the application had been received during the past two years. Two employees of the joint terminal used by applicant at San Francisco also testified that they have received daily

requests for information with respect to passenger transportation to the various snow areas of the State, including those points embraced by the application. Another witness for applicant was the person who had made the party arrangements with applicant in 1937-1938 and now to be employed by it as ski instructor should the application be granted. He testified that the growing popularity of skiing as a winter sport has resulted in a demand for individual fares to the snow areas rather than on a charter or party basis. With respect to ski instruction the witness claimed this feature of the proposed service would add safety and enjoyment to the sport, particularly for those persons inexperienced in the use of skis.

Six public witnesses appeared in behalf of applicant and the testimony of three others was stipulated into the record. These witnesses testified that they, and in some instances their families, are devotees of the sport of skiing and would make use of the proposed service. Several of these witnesses testified, however, that it would not make any difference to them what company might provide the public service so long as it was available, although one witness stated he preferred traveling with a party movement rather than as an individual passenger.

Protestant, Pacific Greyhound Lines, operates as a common carrier of passengers and their baggage between all of the points sought to be served by applicant and over the same route. On January 24, 1938, the Commission issued its Decision No. 30553 on Application No. 21680 authorizing protestant to interchange equipment at Sonora with L. H. Sell (then doing business as Dardanelle Stage Line, operating only a summer seasonal service between Sonora and Pinecrest) to provide a direct through service between San Francisco and Long Barn and/or Pinecrest. In granting this application, the Commission recognized that such service would permit the public opportunity to engage in snow sports in the area beyond Sonora.

Protestant operated through schedules on a party basis between San Francisco and Sonora during the first three months of 1938. The same service was offered the public during the first quarter of 1939 but not actually operated as there was no call for the service due to lack of snow.

On April 25, 1939, the aforementioned L. H. Sell was authorized to abandon his operations (Decision No. 31949 on Application No. 22670). At the same time in Decision No. 31948 on Application No. 22671, the protestant here was authorized to operate through the territory served by L. H. Sell and ordered to provide summer service between the approximate dates of May 15 and September 15 of each calendar year on a daily basis, and during the winter period from approximately September 15 to May 15 of the following year when public convenience and necessity required. Here again the Commission recognized that protestant here would not only be in a position to furnish direct service to the resort area between Sonora and Pinecrest during the summer months, but also to furnish the same type of service to the snow area in the territory during the winter sport season. Protestant's chief witness testified that the revenues derived from the summer service just referred to barely met the out-of-pocket costs of operation. Testimony was offered showing the results of a traffic survey of the need and demand for service to the Long Barn-Pinecrest area and the Baxter-Truckee area made at the beginning of the present winter season. In past years the demand for protestant's service to winter sport areas came primarily from organized groups rather than from individuals. However, the recent survey discloses that the situation has changed and there now is a substantial demand for service on an individual fare basis to both snow areas. There seems to be little doubt that such change has come about through skiing developing from a mere fad into one of the more, if not the most, important

of California's out-door winter sports.

To meet the change in service demand, protestant filed its tariff (C.R.C. No. 272) effective as of December 15, 1939, establishing round-trip fares on an individual and party basis to points in the Baxter-Truckee area, and on a party movement of 30 or more persons to points in the Long Barn-Pinecrest area. Subsequently, and claimed to be solely in response to the demand for service by individuals as revealed by the traffic survey and not by the filing of the instant application, protestant filed its tariffs (C.R.C. Nos. 279 and 291), establishing an individual round-trip fare of \$5.75 between points in San Francisco Bay area and the points of Long Barn, Cold Springs, and Pinecrest, with one round-trip schedule operated on Sundays. Service started January 21, 1940, and will continue to operate so long as the demand therefor exists. Protestant uses 37-passenger cruiser type buses in this service and has readily available all the necessary equipment of like type to handle any volume of traffic offered.

Both applicant and protestant offer the same number of schedules; the same rest and meal stops; the same baggage privileges; and substantially the same time of departure and arrival at all points covered by the application. As hereinbefore indicated applicant offers an individual round-trip fare of \$4.50 with ski instruction, while protestant offers an individual round-trip fare of \$5.75 without ski instruction. Those persons having no need or desire for ski instruction would therefore be charged 75 cents more by using applicant's proposed service than the existing service of protestant.

Protestant points out that its service provides for a party basis of fares for 30 or more persons as well as the individual fare; provides for picking up passengers at all intermediate points between San Francisco and Tracy on the going trip and dis-

charging or picking up passengers at all intermediate points between Sonora and Pinecrest; and for the sale of tickets and transportation of passengers up to the time of departure of the Sunday schedule, all of which the applicant does not propose to do. On brief applicant contends that protestant's service meets only the transportation need and disregards the purpose for which its proposed service is offered, namely, skiing.

There is nothing in this record that would support a conclusion that protestant, Pacific Greyhound Lines, is not now providing reasonable and adequate public service in the field applicant proposes to operate.

From the record herein we are of the opinion and find as a fact that applicant has failed to show public convenience and necessity require operation of the proposed service. The application will be denied.

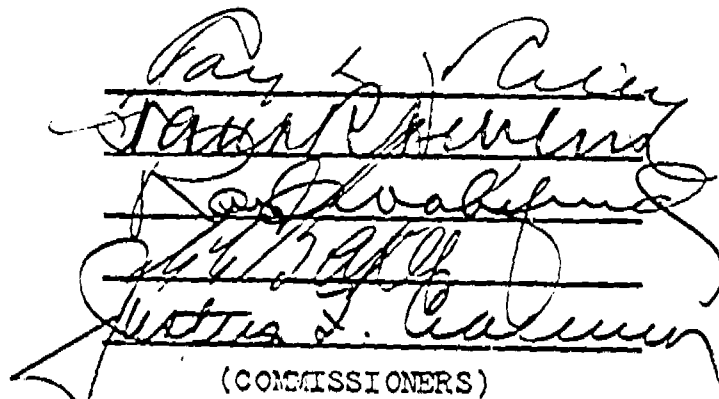
O R D E R

The Burlington Transportation Company having filed the above entitled application, public hearing having been held, briefs having been filed, the matter having been duly submitted, and the Commission being now fully advised:

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby denied.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 12th day of March, 1940.


(COMMISSIONERS)