Decision No. 32247

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation and Suspension by the Commission on its own motion of reduced fares published by Joseph Miller, an individual doing business as Airline Bus Company, between San Francisco and Los Angeles and intermediate points.	ORIGINAL Case No. 4467

WAKEFIELD, COMMISSIONER:

Appearances

Harry A. Encell, for Airline Bus Company, respondent.
H. D. Richards, and E.C. Lucas, for Pacific Greyhound Lines, protestant.
R. E. Wedekind, for Southern Pacific Company, protestant.
William F. Brooks and C. E. Duffy, for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company, protestants.
T. S. Haworth, for Orange Belt Stages, Inc., and Cook's Stages, protestants.
Earl C. Cook, for Cook's Stages, protestant.
G. J. Weiser, for Peerless Stages, Inc., protestant.

O P I N I O N

In the above entitled proceeding, the Commission suspended Sixth Revised Page 9 and Second Revised Page 9-A of Airline Bus Company's Local Passenger Tariff No. 1, C.R.C. No. 1, naming reduced fares for the transportation of passengers between San Francisco and Los Angeles and intermediate points.[1] These schedules were suspended following representations made by The Atchison, Topeka and Santa Fe Railway Company, Santa Fe Transportation Company, Pacific Greyhound Lines,

[1] Joseph Miller, an individual doing business under the name of Airline Bus Company, operates as a passenger stage corporation, serving the territory between San Francisco and Los Angeles via San Jose, Hollister, Coalinga, Maricopa, Maricopa Junction and Castaic Junction. The present fares of this company for transportation between San Francisco and Los Angeles are $5.15 one way and $9.30 round trip. The suspended fares between these points are $4.00 one way and $7.20 round trip. The suspended schedules also provide downward adjustments in the fares from and to intermediate points.

Southern Pacific Company and Cook's Stages that the fares provided therein were unreasonably low and, if permitted to become effective, would jeopardize the revenues of competing carriers. The matter was publicly heard at San Francisco and was submitted on briefs.

In order that a clear understanding of the issues involved may be had, it may be well to preface the discussion of the evidence with a review of the various decisions of this Commission from which Airline Bus Company derived its present operative rights.

In Application No. 19971, as amended, Airline Bus Company sought authority to operate as a passenger stage corporation serving the territory between San Francisco and Los Angeles via San Jose, Hollister, Coalinga, Maricopa, Maricopa Junction and Castaic Junction. By Decision No. 29561, of February 19, 1937, as amended, the application was granted subject to certain restrictions, the principal one being that no service could be rendered between the terminal points of San Francisco and Los Angeles or between San Francisco and Hollister. After commencement of operations Airline Bus Company filed a petition seeking removal of the aforesaid restriction. Upon public hearing, removal of the restriction was found to be justified and necessary in order that Airline Bus Company might continue to serve the intermediate territory, since the passenger traffic in such intermediate territory was insufficient in itself to support the operation. Accordingly the petition was granted, subject to the condition that the services to be rendered between San Francisco and Los Angeles would be limited to operation of not more than three buses per day in each direction. (Decision No. 31331, of October 3, 1938, 41 C.R.C. No. 602.) The Commission made it clear in that decision, however, that in extending permission to Airline Bus Company to carry passengers between the terminal points it was motivated solely by the need of the public for service in the intermediate territory and that this carrier should not then or in the future be permitted to handle a greater amount of terminal business than was necessary to accomplish this purpose.

We turn now to the issues involved in the present proceeding. It is respondent's contention, in substance, that the Commission found in the decision last referred to above, that Airline Bus Company was entitled to enough of the terminal traffic to produce a compensatory over-all operation; that under the existing fare level sufficient terminal traffic to accomplish this purpose cannot be attracted; that the proposed fares would create enough new or added traffic to provide a net profit even though the revenue per passenger would be reduced; and that competing carriers would not be injured substantially, since the bulk of the added traffic would be attracted from so-called "wildcat sedan operators."

In explanation of the inability of Airline Bus Company to obtain any substantial portion of the terminal traffic under its present fares the company's owner testified that the fares in effect were of the same volume as those of Pacific Greyhound Lines and of the coordinated rail-bus operation of The Atchison, Topeka and Santa Fe Railway Company and the Santa Fe Transportation Company, and that they were only slightly lower than the fares for all-rail service via the Southern Pacific Company.[2] These competing carriers, he said, offered faster and more frequent schedules and superior equipment and, as a result, were attracting the bulk of the traffic. Moreover, this witness asserted, a considerable number of persons were employing "wildcat sedan operators" rather than certificated carriers, due to the fact

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The coach class fares of Southern Pacific Company are $6.00 one way and $10.80 round trip between San Francisco and Los Angeles.

that those operators charged only $4.00 or less for carrying passengers between San Francisco and Los Angeles.

The witness for respondent stated that, due to the competitive disadvantages described, his company's buses had been running with an average of from 12 to 15 empty seats per schedule. An exhibit was introduced showing that the percentages of occupied seat miles to available seat miles during January and September, 1939, were 9.54 and 17.8 per cent, respectively. The exhibit also shows that a total of 669 passengers were transported during January, of which number only 19 were transported between San Francisco and Los Angeles. During September, 1,106 persons were shown to have been transported, only 76 of whom were terminal-to-terminal passengers. These figures were said to reflect the daily operation of four 21-passenger buses, two being operated on separate schedules in each direction between San Francisco and Los Angeles, and also the occasional operation of one or more of three additional buses comprising respondent's standby equipment.

The exhibit just referred to also contained a statement of operating revenues and expenses experienced by Airline Bus Company for the months of January and September, 1939, in this operation. The costs developed were said to include all cost items with the exception of return upon investment and salary to the owner. For the month of January, an operating cost of .095 cents per mile and a revenue of .035 cents per mile were shown. The comparable cost for September was .102 cents per mile and the revenue .062 cents per mile. On the basis of these figures it was estimated that respondent experienced an average cost of 10 cents per mile and average revenue of 5 cents per mile during the year 1939.

The owner of Airline Bus Company conceded that should the reduced fares result in an increase in the number of passengers transported between the terminals, operating costs would also increase.[3] He contended, however, that the increased costs would be less than the expected increase in revenue. In this connection he explained that he could operate his present schedules, with buses at full loaded capacity, at small additional gasoline expense, and asserted that the cost of running additional buses would not be great, due to the fact that the buses used were small in size and of a lightweight type.

With respect to the source from which the added traffic which respondent hoped to stimulate would originate, it was stated that the bulk of the through business expected to be secured was traffic moving by so-called "wildcat" sedan operators. It was conceded that some of the through traffic which would be secured would be diverted from the other common carriers in the territory. The opinion was expressed that the lower intermediate fares proposed would also stimulate passenger travel locally, although it was admitted that no investigation had been made in this regard. In addition, it was stated that respondent expected to increase its advertising.

The proposed reduced fares were objected to by The Atchison, Topeka and Santa Fe Railway Company, Santa Fe Transportation Company, Pacific Greyhound Lines and Southern Pacific Company, which carriers also serve San Francisco and Los Angeles, although they do not traverse the same route as Airline Bus Company. These fares were also objected to by Orange Belt Stages, Inc., Cook's Stages and Peerless Stages, Inc.,

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[3] The witness stated that at the present time he was operating only two buses in each direction per day between the terminals although his operative right permitted him to operate no more than three schedules nor more than three buses. He anticipated that sufficient traffic would be secured to permit addition of a third bus. As a matter of fact, the witness indicated the probability that he could not take care of the anticipated added traffic with three buses.

passenger stage corporations which maintain joint fares with Pacific Greyhound Lines for transportation between certain of the points or into and out of portions of the territory served by Airline Bus Company.

Protestants contend, in substance, that the proposed reduced fares would enable Airline Bus Company to participate in the terminal business beyond the extent necessary to enable it to continue its present service to the west side territory. They assert that this diversion of traffic would so deplete the revenues of all competing carriers that their ability to continue to render adequate service would be jeopardized. They are apprehensive that they will be compelled to meet the reductions in order to stem such a diversion of traffic, and that they will also have to extend the reductions to intermediate noncompetitive points. Protestants point out that the San Francisco-Los Angeles passenger fares have been drastically reduced in recent years and express the belief that any further reduction would force substantial curtailments in service.[4]

Protestants challenge respondent's statement that there would be little additional cost of operating under the proposed fares. They point out that in the event more passengers were secured than could be handled on the buses now being operated it would be necessary for respondent to operate additional buses to take care of the overflow.

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[4] A witness for Pacific Greyhound Lines stated that during the first eleven months of 1939 it transported on its 30 schedules between San Francisco and Los Angeles an average of 4.5 through passengers and pointed out that the loss of one such passenger would require that 3.2 additional intermediate passengers be secured to compensate for the loss. This witness declared that it had about reached its limit in the amount of diversions it could afford and still maintain its present schedules.
A witness for Santa Fe Transportation Company testified that the California intrastate operation of Santa Fe Transportation Company had not proven profitable and declared that it could ill afford to lose a single passenger. He introduced an exhibit to show that during the month of January an average of 1.25 through passengers per schedule per day were handled by bus between San Francisco and Los Angeles. Similarly per schedule averages of 2.63 passengers for September and 1.96 for November were shown.

While they concede that the added cost of handling additional passengers on the buses presently being operated would be slight, protestants assert that the added cost of handling the overflow would be much greater than expected by respondent. In this connection they refer to respondent's operating cost statement and point out that the out-of-pocket costs of bus operation bear a high percentage of respondent's full costs.

Respondent's contention that the proposed fares, if established, would attract a substantial amount of new traffic from the noncertificated operators, is also disputed by protestants. A witness asserted that in many instances such operators maintained fares lower than the $4.00 fare proposed, and in all probability would maintain whatever differential they found necessary to attract traffic. Protestants maintained that the bulk of the added traffic which respondent would secure would be traffic they presently enjoy.

It was testified, on behalf of Peerless Stages, Inc. and Cook's Stages, that if the reduced fares became effective and Pacific Greyhound Lines decided to meet such fares they would be forced to accept a substantial reduction in their portion of the prorate, which could ill be afforded. A witness for Peerless Stages, Inc. stated further that even if Pacific Greyhound Lines did not choose to meet the reduced fares this carrier would be adversely affected because there would be a diversion of traffic to respondent and consequently Peerless Stages, Inc. would not be transporting as many passengers as at present.

The record is clear that Airline Bus Company is operating at a loss under existing fares. It is not convincing, though, that this loss would be eliminated or the financial position of this carrier improved by the substantial fare reductions here proposed. In this connection it may be conceded that additional passengers could be carried on respondent's present buses at little additional cost. There is no specific evidence of record, however, from which it could be determined whether or not enough new traffic would be attracted to offset the loss in revenue which would be incurred by extension of the reduced fares to the traffic already enjoyed by respondent. In the event the reduced fares should result in attracting enough traffic to cause respondent to operate additional buses, as respondent anticipates, it appears extremely doubtful that the revenue derived therefrom would cover the cost of performing the service.

While the handling of additional terminal traffic on its present schedules would no doubt be of benefit to respondent, it does not appear possible to arrive at a fare basis which would provide any substantial amount of new traffic and yet, at the same time, not require the operation of additional buses or schedules from time to time. The record shows, in this connection, that the volume of traffic fluctuates widely and, moreover, sufficient seats to accommodate the intermediate traffic must be kept available.

The record indicates, moreover, that any substantial amount of added terminal traffic which would be secured at the proposed fares would be traffic presently enjoyed by competing carriers and not traffic now handled by uncertificated carriers as contended by respondent. Airline Bus Company was granted its certificate to serve the terminals upon a record which presupposed that it would operate at fares equal to those of its competitors and would not disrupt the San Francisco-Los Angeles fare structure. There was before the Commission, concurrently, an offer by complainant Pacific Greyhound Lines to serve the intermediate territory. In granting respondent the right to participate in the terminal traffic the Commission, as pointed out by protestants, made it clear that there was no public need for additional bus service between San Francisco and Los Angeles and that respondent was not entitled to become a dominant factor in this transportation. While the Commission still recognizes the need of the intermediate territory for an adequate service at reasonable fares, it must here take into consideration also the affect the proposed fares would have on the fare structure of competing carriers and the possible disruption thereof. The record is not convincing that respondent would be better off if the proposed fares were authorized; on the other hand it does indicate that if respondent were successful in securing traffic under the reduced fares sufficient to produce the needed revenue the affect upon its competitors and upon the fare structure would be unduly adverse. By according respondent the right to participate in the terminal traffic on a rate parity the Commission has gone as far as the facts here of record justify.

In view of the foregoing it must be found that the proposed fares are unreasonably low, contrary to the provisions of the Public Utilities Act, and that the schedules should be ordered canceled.

I recommend the following form of order:

O R D E R

Public hearings have been held in the above entitled proceeding, and based upon the evidence received at the hearings and upon the conclusions and finding in the preceding opinion,

IT IS HEREBY ORDERED that Joseph Miller, an individual doing business as Airline Bus Company, be and he is hereby ordered and directed to cancel Sixth Revised Page 9 and Second Revised Page 9-A to Airline Bus Company Local Passenger Tariff No. 1, C.R.C. No. 1, on or before July 5, 1940, on not less than one (1) day's notice to the Commission and to the public, and that upon cancellation of such schedules, the order of suspension and investigation in Case No. 4467 be vacated and the proceeding discontinued.

The effective date of this order shall be July 1, 1940.

The foregoing opinion and order are hereby adopted and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of June, 1940.

Ray L Riley

Frank R Havenner

Ray E Wakefield

H J Baker

Commissioners.