

ORIGINAL

Decision No. 41694

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GOLDEN GATE TOURS, a corporation, for)
a certificate of public convenience)
and necessity to operate sight-seeing) Application No. 27125
motor tours within the San Francisco)
Bay Area; and for authority to issue)
stock.)

WALLACE L. WARE and JAMES J. BROZ, for applicant.
ALLAN P. MATTHEW and ROLAND J. HENNING, for The Gray Line, Inc.,
and Fialer's Limousines, Inc., protestants.

O P I N I O N

In this application as amended Golden Gate Tours, a California corporation, requests a certificate of public convenience and necessity to operate sight-seeing motor tours within the San Francisco Bay area. Applicant further asks permission to issue \$80,000 of its common stock for the purpose of paying organization expenses, of financing in part the cost of buses and office furniture, fixtures and equipment, and of providing operating capital. Its total initial requirements for these purposes are estimated by it at \$169,200. It proposes to obtain the remaining capital, in excess of the proceeds from the sale of the stock, from notes, equipment sales contracts or other forms of indebtedness.

Public hearings were held before Examiner Gannon in San Francisco on January 12, 13, 14, 15 and 16, 1948, and the matter was submitted on concurrent opening and closing briefs, all of which were duly filed by April 8, 1948.

The application is protested by The Gray Line, Inc., and Fialer's Limousines, Inc., both of which companies are owned and

operated jointly and will hereinafter be referred to as Gray Line. This protestant contends that with one exception the tours proposed by applicant, five in number, are substantially the same as existing Gray Line tours, and that there is no demand for a duplicate service. A description of the tours, proposed by applicant, together with the corresponding tours presently operated by protestant, follows:

(1)

Applicant's
Proposed Tours

Tour No. 1 - San Francisco-
Golden Gate Bridge Tour

This tour would originate and terminate in San Francisco. It would be routed via Latin Quarter, Coit Tower, Fisherman's Wharf, Aquatic Park, Fort Mason, Yacht Harbor, Presidio, Golden Gate Bridge, Sausalito, Palace of the Legion of Honor, Lincoln Park, Veterans' Hospital, Cliff House, Golden Gate Park, Steinhardt Aquarium, Fleishhacker Zoo and Pool, Lake Merced, St. Francis Wood, Twin Peaks, Mission Dolores, Mint, and Civic Center. It would be offered daily at 10:00 a.m. and 2 p.m. (Also at 9 a.m. and 3 p.m. from June 1 to Oct. 1).

Fare: \$2.75 plus tax
Time: 3½ hours
Mileage: 35.1 miles

Tour No. 2 - Muir Woods - Giant
Redwoods - Historical Tour

This tour would originate and terminate in San Francisco. It would be routed via Presidio, Golden Gate Bridge, Muir Woods, Mill Valley, Old Mill Park, Tamalpais High School, Marin City, Marin Shipyards, Sausalito and Fort Baker. It would be offered daily at 1:30 p.m.

Fare: \$3.00 plus tax
Time: 3½ hours
Mileage: 39.7 miles

Existing
Gray Line Tours

Tour No. 27 - 49 Mile Drive

This tour originates and terminates in San Francisco. It is routed via the same San Francisco points of interest proposed by applicant's Tour No. 1. It also includes a trip through the San Francisco financial district and through Chinatown. It does not include a trip across the Golden Gate Bridge to Sausalito and return. The tour is offered daily at 9:30 a.m. and 2:30 p.m.

Fare: \$2.75 plus tax
Time: 3½ hours.

Tour No. 12 - Muir Woods - Big
Trees - Marin County

This tour originates and terminates in San Francisco. It passes the same points of interest proposed by applicant's Tour No. 2. It also is routed via the Latin Quarter, Palace of Fine Arts and Nob Hill. It is offered daily at 1:45 p.m.

Fare: \$3.00 plus tax.
Time: 3½ hours

(1) All tours originate and end in San Francisco. In addition to the five tours compared, Gray Line also operates some fifteen other tours in the Bay Area.

Tour No. 3 - Stanford University-Peninsula Tour

This tour would originate and terminate in San Francisco. It would be routed via the exterior of Hunter's Point Naval Drydocks, Brisbane, South San Francisco, San Francisco Airport, Burlingame, San Mateo, Bay Meadows Track, Belmont, San Carlos, Redwood City, Palo Alto, Stanford University Campus, Menlo Park, Redwood City, San Carlos, Belmont, Hillsdale, San Mateo, Hillsborough, Burlingame, Millbrae, Lomita Park, and Tanforan Track. It would be offered daily at 1:30 p.m.

Fare: \$4.00 plus tax
Time: 4½ hours
Mileage: 83.6 miles

Tour No. 4 - East Bay Cities-State University-Bridges-Muir Woods Tour

This tour would originate and terminate in San Francisco. It would be routed via San Francisco-Oakland Bay Bridge, Oakland City Hall, County Courthouse, Lake Merritt, Municipal Auditorium, East Shore Park, Piedmont, Piedmont Park, Berkeley, University of California Campus, Albany, El Cerrito, Richmond Ferry, Alto, Mill Valley, Old Mill Park, Muir Woods, Golden Gate Bridge, Presidio. It would be offered daily at 9:30 a.m.

Fare: \$5.50 plus tax
Time: 7½ hours
Mileage: 97.6 miles
(Fare does not include luncheon.)

Tour No. 9 - Stanford University-Suburban

This tour originates and terminates in San Francisco. It is routed via the same points of interest proposed by Tour No. 3 except that it does not pass Hunter's Point Naval Drydocks. It is offered daily at 1:30 p.m.

Fare: \$3.00 plus tax
Time: 4½ hours

Tour No. 16 - Oakland-Berkeley-Muir Woods-Bridges

This tour originates and terminates in San Francisco. It is routed via the same points of interest as applicant's proposed Tour No. 4. It also passes San Francisco's Palace of Fine Arts, Yacht Harbor, Fort Mason and Nob Hill. The tour is offered daily at 9:45 a.m.

Fare: \$5.50 plus tax
Time: 7½ hours
(Fare does not include luncheon.)

Tour No. 5 - Chinatown after Dark-
Downtown San Francisco-Oakland
Nite Tour via San Francisco-
Oakland Bay Bridge

This tour would originate and terminate in San Francisco. It would be routed via Chinatown, Coit Tower, International Settlement, Financial Center, San Francisco-Oakland Bay Bridge, Oakland City Hall, County Courthouse, Lake Merritt, Municipal Auditorium and East Shore Park. Without dinner, tour would be offered at 7:30 p.m. Tours having dinner in Chinatown would be offered at 6 p.m.

Fare: \$2.00 plus tax
Time: Approximately 2½ hours.
Mileage: 27 miles
(Fare would not include dinner.)

Tour No. 3 - Chinatown after dark
and Latin Quarter-Telegraph Hill-
Fisherman's Wharf.

This tour originates and terminates in San Francisco. It is routed via the same San Francisco points of interest as proposed Tour No. 5. It also stops at Fisherman's Wharf and passes over Nob Hill. It does not cross the San Francisco-Oakland Bay Bridge. The tour is offered nightly at 8 p.m. (Also at 7:30 and 8:30 p.m. during the period from June 15 to September 1.)

Fare: \$1.50 plus tax
Time: 2½ hours

A comparison of the two groups of tours indicates that there is no substantial difference between them, either in the routes traversed, time of departure or fares charged. The proposed Tour No. 1 of applicant is identical with Tour No. 27 of Gray Line except for a trip across Golden Gate Bridge. Tour No. 2 of applicant, the Muir Woods trip, is practically the same as Gray Line Tour No. 12. Proposed Tour No. 3, which is the Stanford University-Peninsula tour, corresponds with Gray Line Tour No. 9 except that it digresses from the main highway to view the Hunter's Point Naval Drydocks. Tours Nos. 4 and 5, as proposed, correspond respectively with existing Tours Nos. 16 and 3, except that No. 5 includes a trip across the Oakland-San Francisco Bay Bridge and return. With the sole exception of Hunter's Point, the applicant does not propose to serve any point which is not presently served by the existing carrier in the field.

The applicant rests its case chiefly upon the following contentions:

1. That it offers a new type of sight-seeing coach called the "Astraview" which provides top as well as side visibility;
2. That it will provide hostess-lecturers to accompany each tour;
3. That the sight-seeing field in this area is now dominated by a monopoly as a result of which the public is not receiving as satisfactory a service as it would under competitive conditions.

The chief witness appearing for the applicant is also one of the organizers of the new company Golden Gate Tours, and an officer thereof. (2) He testified as to the virtues claimed for the new type of bus, and of its adaptability to modern sight-seeing requirements: The coach is equipped with overhead glass windows which, the witness stated, were glare-proof and heat-resistant. It has a seating capacity of 33 passengers. Applicant has entered into a contract with the manufacturer for the purchase of seven of these coaches at a cost of \$15,906.16 per unit, including tax.

Each tour will be provided with a uniformed hostess-lecturer who will describe the points of interest on the tour.

The witness testified that this is not a new service in the sense that it is anything other than a sight-seeing service, but his company feels they are offering something new and different in the way they propose to operate the service. Much of the business applicant would receive, the witness stated, will be induced or created business, as distinguished from patronage which may be diverted from Gray Line. Applicant has been promised the cooperation of the American Sight-seeing Association, a national organization, in producing new business. The latter association operates in competition with Gray Line.

(2) The incorporators and officers are Harry A. Fialer, President and General Manager; Neal McNeill, Vice-President; Wallace L. Ware, Vice-President and James J. Broz, Secretary.

Applicant produced some ten or twelve public witnesses whose testimony followed a general pattern. For the most part, they were representatives of hotels, travel agencies and tourist bureaus. One of the witnesses produced a letter of endorsement from the San Francisco Hotel Association. It was his personal opinion that competition in the hotel business tended to promote and improve the service and that competition in the sight-seeing business would have the same effect. The Manager of Thomas Cook and Sons, steamship, tourist and travel agents, would like to see another sight-seeing operator in the field. The Secretary-Treasurer of the American Sight-seeing Association, Inc., came from Washington, D. C., to testify. He expressed the opinion that it was definitely in the public interest to have competitive service. A representative of the Central Council of Civic Clubs of San Francisco testified that it was the policy of his organization to foster all forms of competitive transportation service. The Manager of a San Francisco hotel testified that he favored the granting of the application because of its competitive nature. The Manager of the Convention and Tourist Bureau of the Oakland Chamber of Commerce, a witness for applicant, testified that he was familiar with the Gray Line service, had used it for 18 months, and found it completely satisfactory. Two witnesses stated that in their opinion the Gray Line service was unsatisfactory and the equipment obsolete and run down.

A former employee of the Foreign Travel Department of American Express Company, and of the Gray Line, who is presently employed by applicant, was of the opinion that the load factor developed by two competitive companies, engaging in virtually parallel service, would be as favorable as the load factor developed by one operator offering a single service over the same route. This

witness was satisfied that the proposed and existing tours were substantially competitive.

This cross-section of the testimony of applicant's witnesses we believe fairly typifies the general trend. Those witnesses were far more concerned with a competitive service than they were critical of the present service.

The principal witness appearing on behalf of Gray Lines in protest against the granting of the application was a consulting engineer, who is an officer and director of several allied sight-seeing companies, including the protestant herein. He did not deny that Gray Line equipment was more or less run down after the war, but stated that every effort has been made since 1945 to rehabilitate the buses and other equipment. This includes the purchase of 11 Gillig buses at a price of \$13,000 each. He stated that he helped design a sight-seeing bus that would afford the ultimate in visibility, and that it compared favorably with buses now in use in other cities. In December 1946, he placed an order for ten new Flxible type buses, and that order still stands. This witness testified that an adequate side view is more important in sight-seeing buses than a top view, and that the essential requirement in all sight-seeing buses is a maximum side visibility. He did not feel that he could obligate his company to purchase buses of the Astraview type. Since July 1946 protestant and associated companies had expended \$627,000 for new equipment of which \$204,000 was allocated for Gray Line sight-seeing purposes. Protestant, the witness stated, in addition to the eleven Gillig buses, operates some 84 sight-seeing buses besides six pickup limousines, making a total of 101 passenger units. Most of this equipment is in relatively good condition. It maintains in the neighborhood of 99 ticket sales agencies in the Bay area.

Finally, the witness was of the opinion that the authorizing of an additional service would not generate any appreciable new business, as it has already reached its peak. He believes the effect of diversion would be to weaken the established carrier financially and force it to abandon present non-compensatory tours.

Protestant called as public witnesses representatives of eight of the leading hotels of San Francisco and the East Bay, practically all of whom sold Gray Line tickets in their respective lobbies. They characterized the sight-seeing service of Gray Line as very satisfactory and adequate. None of them had received any complaint either as to service, equipment or courtesy. The remaining public witnesses represented travel agencies and tourist bureaus. The manager of the San Francisco Convention and Tourist Bureau testified that Gray Line was rendering "excellent service". Passenger representatives of three of the transcontinental rail lines testified to the adequacy and "excellence" of Gray Line service.

The record in this matter is clear enough. Applicant relies primarily upon the proposed use of the Astraview type of bus, with the added feature of hostess-lecturers, together with the alleged necessity for a competitive service. Nothing essentially new is proposed. Hostess-lecturers have been installed in other sight-seeing areas and have been discarded as impractical. The Astraview bus is still in the experimental stage, and there is a division of opinion, as disclosed by the evidence, as to the actual merits of this innovation. The question of need for a competitive service is one that can only be determined on its merits. Were this not true, and following the argument to its logical conclusion, any applicant coming to the Commission for a certificate of public convenience and necessity, might seize upon a slight innovation in

equipment, or a minor new method of operating the service, and expect to obtain a certificate, regardless of the adequacy of service rendered by the carriers in the field.

There was some testimony in the record regarding a probable continuing influx of new residents into California and an increase in the volume of tourist traffic. However, the Manager of the largest hotel in the Bay Area testified that, in his opinion, the peak had been reached and that there was no reason to expect an increase in 1948 and 1949.

The record in this matter does not establish need for an additional sight-seeing service. Certainly it cannot be maintained that there is criticism or complaint against protestant's service by the users thereof, unless we consider occasional minor lapses. As typical, we may cite the instance of one of the largest tour agencies whose representative complained that Gray Line had failed to supply them with current folders for distribution to patrons.

There can be no doubt that the service proposed by the applicant is a virtual duplication of the service now being rendered satisfactorily by Gray Lines. The record contains no evidence that would support a contrary conclusion. Both applicant and protestant cite with approval the decision in the Bowman case.⁽³⁾ In that matter the Commission stated that "nowhere in the record do we find any clear and affirmative showing that the existing service is inadequate or unsatisfactory". If we except the Astraview type of bus and the hostess-lecturers, the instant application is on all fours with the Bowman case.

(3) Decision No. 40434, dated June 24, 1947, Application No. 27300.

Upon a thorough review of the record herein we are of the opinion, and so find, that public convenience and necessity does not require the granting of the within application.

O R D E R

A public hearing having been held in the above-entitled proceeding, the matter having been submitted on briefs, and the Commission being fully advised,

IT IS ORDERED that Application No. 27125 of Golden Gate Tours for a certificate of public convenience and necessity to operate sight-seeing buses within the Oakland-San Francisco Bay area and for authority to issue stock be, and it hereby is, denied.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 8th day of June, 1948.

R. Z. Driscoll
Justus J. Cramer
Robert L. Lyle
Harold P. Hale
Samuel P. Potter
COMMISSIONERS