

ORIGINAL

Decision No. 42331

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
AIRLINE BUS COMPANY to remove and) Application No. 19971
modify certain restrictions contained) (2nd Amended 4th Supplemental)
in Decision No. 31331, as amended.)

Wallace L. Ware for applicant
Douglas Brookman, Allan P. Matthew and Gerald H. Trautman, for
Pacific Greyhound Lines; William F. Brooks and John B. Kramer,
for The Atchison, Topeka & Santa Fe Railway Company and
Santa Fe Transportation Company; William Meinhold and
W. A. Gregory for Southern Pacific Company, protestants.

O P I N I O N

Airline Bus Company, a "passenger stage corporation", as defined in Section 24 of the Public Utilities Act, seeks an order removing or modifying various restrictions in its operative rights. Pacific Greyhound Lines, Santa Fe Transportation Company, Southern Pacific Company and The Atchison, Topeka & Santa Fe Railway Company protest the granting of the sought relief. Public hearings were held before Examiner Bradshaw at San Francisco, Hollister, Taft and Coalinga. Briefs have been filed.

Applicant is a corporation. It acquired the operative rights and properties of Joseph Miller (an individual doing business as Airline Bus Company) pursuant to Decision No. 39533, dated October 15, 1946, in Application No. 27370. As used herein, the term "applicant" will include the corporation and its predecessor in interest.

Operations are conducted by applicant between San Francisco and Los Angeles over a route comprising U. S. Highway 101 from San

Francisco to a point about 2 miles south of Gilroy, thence over other highways (sometimes called the Airline Highway) via Hollister, Coalinga, Taft and Maricopa to a connection with U. S. Highway 99 at Maricopa Junction and thence over the latter highway to Los Angeles. The territory between Hollister and Maricopa Junction will be referred to in this opinion as the "West Side." According to the record, the distance via applicant's route is 399 miles, the distances via Pacific Greyhound Lines' San Joaquin Valley and Coast routes are 408 and 443 miles, respectively, and that via the Santa Fe Transportation Company is 404 miles.

In the transportation of passengers, baggage and newspapers, applicant's operations are subject to the following restrictions:

- (1) No more than three schedules nor more than three stages shall be operated in each direction in any one day between Los Angeles and San Francisco.
- (2) No service may be given between San Francisco and Hollister and intermediate points, on the one hand, and the junction of Maricopa Road with U. S. Highway No. 99 at Maricopa Junction and Los Angeles and intermediate points, on the other hand; provided that service may be given between Hollister and Los Angeles; and further provided that this restriction shall not apply to service between the termini San Francisco and Los Angeles.
- (3) No service shall be given locally between San Francisco and Hollister and intermediate points, excluding Hollister.
- (4) No service shall be rendered locally between Taft and McKittrick and intermediate points.
- (5) No service shall be given locally between the junction of Maricopa Road with U. S. Highway 99 at Maricopa Junction and Los Angeles and intermediate points.

Applicant desires that the foregoing restrictions be

removed and in lieu thereof restrictions be imposed providing that no service shall be rendered locally (a) between Los Angeles and San Fernando and intermediate points, and (b) between San Francisco and San Jose and intermediate points, except that service may be rendered between San Francisco, on the one hand, and San Jose, on the other hand.

Applicant commenced operations during May 1937, pursuant to a certificate of public convenience and necessity granted by Decision No. 29561, dated February 19, 1937, in Application No. 19971. By the terms of the certificate, authority was granted to operate between San Francisco and Los Angeles, subject to certain restrictions, including the prohibition against transporting passengers (1) between San Francisco and Hollister and intermediate points; and (2) between San Francisco, on the one hand, and Los Angeles, on the other hand. These two limitations were imposed because of the absence of any showing that existing carriers were not providing adequate service.

Subsequently, upon a showing that applicant could not render adequate service to the West Side⁽¹⁾ without participating in traffic moving between San Francisco and Los Angeles and between San Francisco and Hollister, the restrictions were modified so as to permit applicant to engage in traffic moving between these points. Our order, however, provided that no more than 3 daily round trip schedules may be operated between the terminals, i. e., San Francisco and Los Angeles. (Decision No. 31331, dated October 3, 1938, 41 C.R.C. 602). The record disclosed that 3 schedules each way per day would provide adequate service to and from the West Side.

In authorizing applicant to transport traffic for which

(1) A net loss of \$16,223.98 was sustained during the period from May 10 to December 31, 1937.

authority had previously been withheld, the Commission said: (41 C.R.C. 602 at pp. 606-607).

"While transportation conditions have materially changed since these matters were submitted, we are of the opinion that there is a reasonable possibility that the Airline Company with an opportunity to participate in other traffic can thus serve a territory which requires public transportation service.

"In reaching this conclusion, we are not losing sight of the future possibility that materially improved road conditions could make the Airline Company the dominant bus carrier between Los Angeles and San Francisco. We are here concerned with the public interest, insofar as it demands an adequate transportation service to a rather limited territory. Granting the Airline Company the right to participate in other traffic is done only to insure service to the West Side. The Airline Company is not entitled to now, nor in the future should it be allowed, to participate in the terminal business beyond the extent necessary to enable it to provide a reasonably adequate service to the West Side territory."

Thereafter, a petition for rehearing filed by Pacific Greyhound Lines and Southern Pacific Company was denied. Our order denying the petition also amended previous orders by modifying the restrictions governing applicant's operations so as to embrace the provisions which are now in effect. (Decision No. 32104, dated June 20, 1939.)

Applicant contends that the removal of the restrictions is essential to the continuation of its operations. It claims that (a) additional revenue is required to meet operating expenses and (b) although obligated to continue to serve the West Side, applicant's capital investment will be seriously impaired if the restrictions remain in effect. It is asserted that applicant's difficulties are due to the fact that it cannot exercise reasonable managerial discretion in adjusting operations so as to earn additional revenues during peak traffic periods.

The removal of the restrictions, applicant further contends, is in the public interest, because (a) applicant provides the shortest and most direct transportation facility between the West Side and San Francisco and Los Angeles and (b) the additional revenue which applicant may earn by removal of the restrictions will not impair the revenues or services of protestants. Applicant also characterizes as inequitable the requirement that it operate under restrictions based upon conditions existing in 1938 and which, assertedly, have since materially changed. Complaint is made of the fact that protestants, Pacific Greyhound Lines and Santa Fe Transportation Company, are not hampered by similar restrictions, although they are "strong" lines and applicant is a "weak" line.

In 1939, 1940 and 1941, following our last decision involving applicant's operative rights, its revenues amounted to \$42,291, \$55,630 and \$36,711, respectively. Substantial increases in revenue occurred during the next 4 years. In 1945, the peak year of applicant's traffic, revenues amounted to \$283,299. During 1946 and 1947 revenues declined to \$202,458 and \$166,264, respectively. A net loss of \$34,170 was sustained during the 3-year period from 1939 to 1941, inclusive. Net profits after payment of income taxes were earned from 1942 to 1946, the figures being: 1942, \$5,689; 1943, \$20,436; 1944, \$23,013; 1945, \$22,279; and 1946, \$2,637. A loss of \$1,604 occurred in 1947. During the first 5 months of 1948 applicant failed to meet expenses by \$20,179. The record also discloses that, like other passenger stage corporations, applicant has been confronted during the last few years with increases in operating costs.

Applicant's principal witness predicted that if the present trend in losses continues the operating loss for 1948 will be between \$10,000 and \$15,000, with increased losses in future years. He also

said that if it becomes necessary to grant applicant's drivers an increase in wages — negotiations being pending when the hearings were held — the loss for 1948 would be \$5,000 greater. It is urged that relief in the form of increased fares is not available to applicant because the fares of Pacific Greyhound Lines and Santa Fe Transportation Company between San Francisco and Los Angeles constitute a competitive yardstick by which it must be governed.

Applicant attributes the decline in revenues to a reduction in traffic between the terminals. It claims that the restrictions in the number of schedules which may be operated and the prohibition against operating extra sections between the terminals place it at a disadvantage in competing for terminal business. The following table, compiled from exhibits of record, shows the relation of applicant's terminal and local traffic, the load factors experienced and the average revenue per bus mile:

	<u>Average Number of Terminal Passengers Per Trip</u>	<u>Average Number of Local Passengers Per Trip</u>	<u>Load Factor (Per Cent)</u>	<u>Average Revenue Per Bus-Mile (cents)</u>
1943	11.1	25.2	73.7	29.8
1944	11.6	29.3	80.5	32.7
1945	11.4	29.1	67.8	31.3
1946	5.0	27.0	47.1	21.6
1947	3.3	24.5	37.6	17.7
Jan. 1948	2.1	20.9	31.2	15.6
Feb. 1948	2.0	20.0	22.2	15.9
Mar. 1948	2.2	20.8	26.6	17.7
Apr. 1948	1.7	29.3	26.6	14.9
May 1948	2.4	20.6	30.8	17.0

In addition, the annual ticket sales at San Francisco and Los Angeles indicate a much greater decline than the ticket sales at other points. The figures for the years 1945, 1946 and 1947 are as follows:

	<u>San Francisco and Los Angeles</u>	<u>Other Points</u>
1945	\$179,920	\$87,290
1946	105,328	92,089
1947	80,264	78,977

As contrasted with its 3 round trips per day, applicant calls attention to substantial increases in the bus schedules established by Pacific Greyhound Lines and Santa Fe Transportation Company between San Francisco and Los Angeles within the last few years. In February, 1937, Greyhound operated 14 southbound and 13 northbound daily schedules. During July, 1948, it operated 48 daily schedules in each direction. Santa Fe Transportation Company, in addition to its coordinated schedules in connection with Santa Fe train service, had 13 daily bus schedules in operation in each direction during July, 1948, as compared with 4 in July, 1938. Applicant's principal witness testified that under these conditions it cannot attract an appreciable volume of terminal-to-terminal traffic. It was stated that the situation could be improved if applicant's schedules were more frequent. On brief, applicant asserts that the substantial increase in Greyhound's schedules has nullified the result anticipated by the Commission in imposing the existing restrictions, namely, that of enabling applicant to participate in sufficient terminal business to permit it to render adequate service to the West Side.

An analysis was made of applicant's traffic during August, 1947. It appears that 88 of 191 schedules were operated with passengers in excess of the seating capacity of applicant's buses, the total number of overload passengers being 416. It was stated that as many as 48 passengers — 19 in excess of the seating capacity — boarded a bus in one instance. However, the record indicates

that the crowded condition of the buses occurred principally between Hollister and San Francisco and between Los Angeles and Taft. Applicant is at liberty to operate extra buses and additional schedules between these points. Moreover, traffic between the terminals was abnormal during this particular month, due to a strike on the Santa Fe Transportation Company.

Although the population in the West Side is much lighter than in the balance of the territory through which applicant operates, but in which it is restricted from engaging in local traffic, data were presented to show that since 1940 the population in the West Side increased from 14,732 to 35,425 or 140 per cent, as compared with 43 per cent for the State as a whole. It was also indicated that the population per route-mile is greater in the territory served by protestants than in the West Side.

Applicant presented certain operating statistics of Pacific Greyhound Lines and Santa Fe Transportation Company. A substantial increase in the number of bus-miles operated in inter-city service by Greyhound in California since 1944 is cited. The number of inter-city revenue passengers carried by Greyhound in California in 1947 is referred to as the greatest in the history of that carrier. Greyhound's earning position is stressed. Applicant contends that should it be successful in quadrupling the present volume of terminal-to-terminal business and the entire amount of the increased traffic is diverted from protestants the effect upon those carriers' operations would be insignificant. Although it was recognized that the removal of the restrictions might result in some diversion of traffic, applicants' chief witness expressed the view that ultimately the increase in traffic would be more attributable to the growing trend of the total terminal-to-terminal business, for a portion of which

applicant seeks the right to compete.

Numerous West Side residents, including several county and city officials, and two members of the State Legislature whose districts include San Benito County, testified on behalf of applicant. They stressed the fact that applicant maintains the only direct passenger service between the West Side and San Francisco and Los Angeles and is the only passenger carrier operating to and from Avenal, a community 17 miles south of Coalinga having a population of 3,000. The witnesses urged that the restrictions governing applicant's operative rights be removed on the theory that by permitting it to participate in a greater volume of business between the terminals, applicant would be in a position to render a more satisfactory service to the West Side. It was stated that there is a need for more convenient and more frequent schedules.

Some of the witnesses predicated their support of the application upon the premise that an increase in applicant's traffic would hasten the construction of a major highway between southern and northern California through the West Side.

Considerable testimony was given to the effect that applicant's buses are frequently overcrowded, particularly during weekends and holidays. On other occasions, it was stated, traffic usually is very light. A few of the witnesses contended that the West Side should be accorded service comparable to that enjoyed at other points, such as Merced, Delano and Salinas.

Various residents at Taft and other points in that vicinity testified that an existing service rendered by Cook's Stages between Taft and Greenfield Corners in connection with Pacific

Greyhound Lines between the latter point and Los Angeles is unsatisfactory. They also said that a former local bus service between Taft and McKittrick and intermediate points is no longer in operation and that there is a need for service between these points.

A number of residents of Hollister indicated that they were unable to secure transportation by applicant between that point and communities south of San Francisco on U. S. Highway 101. It appears, however, that this situation arose because of a misapprehension on applicant's part that the restriction against performing service "locally between San Francisco and Hollister and intermediate points, excluding Hollister" precluded it from transporting passengers between Hollister and points south of San Francisco. The Hollister witnesses also testified that the present service of Pacific Greyhound Lines to and from that community is unsatisfactory.

Twenty-four resolutions urging the removal of applicant's restrictions were presented by witnesses representing city councils, chambers of commerce, fraternal organizations and service clubs at various West Side communities. They recite, in substance, that applicant is rendering an essential service and it has been represented that in order to continue to serve the West Side increased revenues are necessary.

Protestants did not offer any evidence other than to submit, in response to applicant's request, certain data concerning their time schedules. They do not object to the removal of the restriction prohibiting local service between Taft and McKittrick and intermediate points. On brief, in which the other protestants concur, Pacific Greyhound Lines contends that applicant's case seeking removal of the other restrictions is based solely on its financial necessities, rather than the public's need for additional service.

It is argued that the testimony of the public witnesses has no probative value, because they were concerned with applicant's financial needs and did not have an adequate understanding of the proposals or of applicant's existing rights and service. As a further ground for denial of the application, this protestant asserts that no showing has been made that public convenience and necessity require the removal of the restrictions, since it does not appear that the services of existing carriers between the points where the restrictions apply are inadequate. It is also claimed that the showing of diminished traffic by applicant between the terminals refutes any claim of necessity for additional service.

In reply, applicant asserts that the real issue is whether public convenience and necessity require the continuance of its service through the West Side. It is contended that, the removal of the restrictions being essential to continued operation of an existing service, different considerations should govern our decision herein than apply where an applicant is seeking to render a new service in territory in which it has never operated. According to applicant, (1) the changed conditions which are claimed to preclude it from attracting sufficient terminal-to-terminal traffic, (2) the need for continued and improved service to the West Side and (3) the unavailability of any other method than the removal of the restrictions to avoid potential insolvency constitute ample justification for the sought relief. It challenges protestants' contention that the public-witness testimony is inadequate proof of the public convenience and necessity which is at issue in this proceeding.

In the event that the San Francisco-Los Angeles service restrictions are removed, applicant does not propose an immediate

increase in its schedules. It was testified that the 3 schedules would be continued but that the time in transit would be shortened. Applicant hopes that by doing so additional terminal-to-terminal business can be created. If an improvement in applicant's revenue position is realized, it then proposes to add additional schedules.

The proposed schedule revision contemplates departures from each terminal at 9:30 a.m., 7:30 p.m., and 11:00 p.m., with an average transit time between Los Angeles and San Francisco of 11 hours and 5 minutes.⁽²⁾ It is apparent that these schedules are designed primarily to accommodate terminal-to-terminal traffic. As in the case of applicant's present schedules, certain buses would arrive at and depart from West Side points at very inconvenient hours. It would appear that if applicant operated a mid-day schedule from each terminal there would be an opportunity to secure some additional terminal business and at the same time provide a more convenient and satisfactory service to the West Side.

After carefully examining the entire record, we conclude that a sufficient showing has not been presented to justify the removal of the restrictions involving operations between points served by other carriers. No evidence has been offered of any inadequacy in existing services other than between points where applicant is not restricted in its operations. The Commission, therefore, is not warranted at this time in receding from the view expressed in the prior decision that applicant should not be allowed to participate in the terminal business beyond the extent necessary to provide a reasonably adequate service to the West Side.

(2) According to the record, the average scheduled time of Pacific Greyhound Lines between San Francisco and Los Angeles is 13 hours and 50 minutes via the San Joaquin Valley and 14 hours via the Coast route, while that of the Santa Fe Transportation Company is 12 hours and 35 minutes.

Unlimited access to the terminal-to-terminal traffic has not been shown to be necessary to enable applicant to render adequate service to the West Side, nor does the record indicate that it would benefit financially by a substantial increase in the service or that the present fares can be regarded as "frozen." We are of the opinion, however, that 4, instead of 3 schedules each way per day should be permitted between the terminals to enable applicant to obtain some additional traffic and afford a more satisfactory service.

Under its present authority applicant may operate extra buses and additional schedules over almost any portion of its route even though not permitted to do so between the terminals. Travel upon applicant's buses is usually very light between Taft and Hollister, a distance of 186 miles. This is particularly true north of Coalinga. On the other hand, the heaviest travel occurs between Los Angeles and Taft (119 Miles) and between Hollister and San Francisco (94 miles). It would, therefore, appear that the most economical method of preventing overcrowded conditions during peak travel periods would be to operate extra sections between the points where the overcrowded conditions arise, rather than over the entire length of applicant's route. In the past, it has not been applicant's practice to operate extra buses or to establish additional schedules between these points. Its principal witness testified that to do so would result in an operating loss. No detailed figures, however, were offered in support of this assertion. In our opinion, applicant should undertake to provide extra buses in instances where abnormal traffic demands can reasonably be anticipated.

In view of the duty which rests upon passenger stage

corporations to furnish adequate transportation, restrictions against the operation of extra buses upon regular schedules can only be justified by unusual conditions. In the instant case the restriction was adopted as a means of preventing the use of extra buses in such a manner as might defeat the purpose of the limitation respecting the number of schedules which may be operated between the terminals. While it appears from the record that the occasion for operating extra buses between the terminals to prevent overcrowding would rarely occur, we believe that some method should be provided for taking care of such situations should they arise. Applicant will, therefore, be authorized to operate one extra section of its regular schedules between the terminals, provided that the extra section departs from Los Angeles or San Francisco, as the case may be, not earlier than, nor more than 45 minutes later than, the regular departure time of the schedule upon which the extra section is operated.

Inasmuch as the testimony indicates that there is no existing local service between Taft and McKittrick and intermediate points and there appears to be a need therefor, the restriction against transporting traffic between such points will be removed.

Upon the facts presented, the Commission is of the opinion and finds that public convenience and necessity require that the restrictions imposed by Decision No. 3210+ be modified to the extent hereinabove indicated. An appropriate order will be entered.

O R D E R

Public hearings having been had upon the second amended fourth supplemental application in this proceeding and the Commission, upon the evidence received, having found that public convenience and

necessity so require,

IT IS ORDERED:

(1) That Restriction 1, appearing at sheet 2, of Decision No. 32104, dated June 20, 1939, reading as follows:

"1. No more than three schedules nor more than three stages shall be operated in each direction in any one day between Los Angeles and San Francisco."

be and it is hereby amended to read as follows:

"1. No more than four schedules shall be operated in each direction in any one day between Los Angeles and San Francisco. A second bus may be operated between Los Angeles and San Francisco in connection with any regularly established time schedule, provided it departs from the terminal of Airline Bus Company at Los Angeles or San Francisco, as the case may be, not earlier than, nor more than 45 minutes later than, the departure time as set forth in the carrier's established time schedules."

(2) That Restriction 4, appearing at sheet 2, of Decision No. 32104, reading as follows:

"4. No service shall be rendered locally between Taft and McKittrick and intermediate points."

be and it is hereby rescinded.

This order shall become effective 20 days from the date hereof.

Dated at San Francisco, California, this 21st day of December, 1948.

R. B. Anderson
Justus F. Quince
Joseph L. Kelle
Harold P. Kelle
Herbert Potter
COMMISSIONERS