

**ORIGINAL**Decision No. 47577

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 PACIFIC GREYHOUND LINES, a corpora- )  
 tion, and T. J. MANNING for an order )  
 authorizing the sale and transfer )  
 from Pacific Greyhound Lines to )  
 Manning of certain properties and )  
 operating rights relating to Marin )  
 County service and of T. J. Manning )  
 for certain incidental operating )  
 authority. )

Application No. 33374

Allan P. Matthew and Gerald H. Trautman, for Pacific Greyhound Lines, and Bertram S. Silver, for T. J. Manning, applicants.  
Gordon, Knapp and Gill, by Hugh Gordon, for Bay Area Transit System; Phillips, Avakian and Johnston, by Spurgeon Avakian, for Federation of Marin County Commuter Clubs; A. A. Baker, J. C. Simpson and H. P. Melnikow, for Amalgamated Association Street and Electric Railway and Motor Coach Employees of America, Divisions 1225, 1223, 1222 and 1055; and Helen Negrin, in propria persona, protestants.  
Dion R. Holm, by Paul L. Beck, for City and County of San Francisco; Delger Trowbridge, for San Rafael Chamber of Commerce; and Phillips, Avakian and Johnston, by Spurgeon Avakian, for Contra Costa Commuters Association, interested parties.  
J. T. Phelps, for the Commission staff.

O P I N I O N

The Commission is herein requested to authorize Pacific Greyhound Lines, a corporation, to sell, and T. J. Manning to purchase certain passenger stage operative rights in Marin County and 100 transit type buses. Manning also requests a certificate to operate over U. S. Highway 101 between San Francisco and Novato.

Public hearings were held before Commissioner Potter and Examiner Gillard in San Francisco on May 8, 14, 15, 16, 19 and 20, 1952, and the matter was submitted upon the filing of concurrent briefs on June 11, 1952.

(1) The routes involved in the proposed transfer are described in Appendix A attached hereto.

The proposal of the parties contemplates the transfer of all of Greyhound's San Francisco-Marin County local operations north as far as Novato, except that Greyhound will retain the right to render local service between San Francisco and points on U. S. Highway 101 north of San Rafael. Greyhound will also retain its operating authority along this highway (subject to a restriction against local service between San Francisco and San Rafael, and all intermediate points) and as a consequence, Manning seeks a certificate over the same between San Francisco and Novato. These operative rights are proposed to be transferred for a consideration of one dollar. For the 100 transit type buses, a consideration of fifty thousand dollars has been agreed upon, payable as follows: five thousand dollars payable within 30 days after approval of the transfer, and the balance of forty-five thousand dollars within five years as follows: \$450 for each bus that Manning sells or trades; 50 cents per hour, or four cents per mile, whichever is greater, for each bus chartered or leased by Manning for use other than in Marin County; \$450 for each bus destroyed by fire or accident. At the end of such five-year period, Manning's obligation to pay any unpaid part of such \$45,000 balance is canceled.

Since these buses have been in service for a long period of time, Manning plans a gradual replacement program. Fifteen new buses will be ordered immediately, and thereafter 10 new units will be purchased each year. He will maintain the size of the fleet at a fairly constant level by retiring older units at the same rate new ones are acquired. All usable parts and equipment would be salvaged from the retired units and used as replacements for the remaining fleet.

Manning proposes to conduct the operation in two phases. During the first, or temporary, phase he would establish his headquarters in the offices of Gray Line, Inc. on 4th Street in San Francisco and have his equipment maintained by Greyhound on a joint facility basis. The second, or permanent, phase will commence when he secures a site at some point in Marin County with a shop, office and adequate parking facilities. He asserts he will either build this plant or have it constructed for him on a long-term lease basis and hopes that it will be ready for occupancy in about six months. He will then move to Marin County and incorporate the business.

#### OPERATIONS

Manning testified with reference to the manner in which the operations would be conducted. His basic proposal is to serve Marin County in the same manner as it is presently served by Greyhound, except that all schedules would be operated into and out of the Ferry Building in San Francisco (concurrently, Greyhound would cease all operations at that place). The schedules and routes that he would adopt are those which are presently serviced by the 100 transit buses to be transferred. Greyhound would retain all of its Santa Rosa and other schedules operating through Marin County.

Within San Francisco, Manning stated he would operate some schedules through the Civic Center area and along Van Ness Avenue to accommodate those passengers presently served by Greyhound along a similar route to its 7th Street terminal. To operate in this fashion, Manning would have to utilize curb loading. However, he had not talked with any representative of the City of San Francisco to determine whether, or at what places, he would be given permission for curb loading.

Between the Civic Center area and the Ferry Building, he proposes to operate on some street south of Market. At one point he named Mission, and at another he suggested Folsom. He had not made up his mind, nor had he consulted city officials. Mission Street is very crowded during the morning and evening peak hours, particularly in the vicinity of the Key System terminal at First Street. Folsom Street is a considerable distance from Market and more remote from the financial and shopping areas north of Market.

Manning testified that all schedules would originate at the Ferry Building. Some, apparently, would operate on a direct route starting along the Embarcadero to the Golden Gate Bridge. Others would go through the Civic Center area. Manning did not testify how many would be operated either way. He did not determine the number of passengers serviced each day by Greyhound at the Ferry Building and at the 7th Street terminal.

A Marin bound commuter would not of his own choice board a bus at the Ferry Building which was going to be routed through the Civic Center area and make numerous stops for curb loading. He would prefer the faster, direct route along the Embarcadero. It seems probable that the Civic Center buses would have to leave the Ferry Building empty, and yet Manning testified that all such buses would start their runs from there and not from his proposed parking area at 4th and Harrison.

Concerning the Marin end of the operation, the proposal of the parties contemplates a duplication of service north of San Rafael to and including Novato. Greyhound would retain its rights to serve between that area and San Francisco but would cancel its commutation fares. With respect to this area, Manning first insisted he would tolerate no competition with Greyhound

during regular hours. He would, however, have Greyhound transport his commute passengers, to Novato for example, at late hours, such as 2 a.m. This would save Manning the expense of running unprofitable schedules. Under cross-examination, Manning shifted his ground completely when he admitted there would be no way to prevent his passengers from boarding Greyhound buses and his final proposal was to enter a ticket honoring arrangement whereby any of his commuters from the area north of San Rafael to Novato could ride Greyhound buses at no extra cost to the passengers. All of Greyhound's buses would go to its 7th Street terminal and all would be through, express buses. It should also be noted that Greyhound runs 35 schedules a day to or through Santa Rosa. Manning does not propose to compete with that many schedules to Novato. The foregoing would indicate that Manning's proposal to operate north of San Rafael to Novato was conceived without proper consideration of the consequences.

With reference to San Rafael, Greyhound would cease all local operations. At the present time, Greyhound operates 23 schedules northbound and 26 schedules southbound between its 7th Street terminal and Santa Rosa, all of which make stops at San Rafael. On Thursday, February 14, 1952, 238 passengers boarded these southbound buses at San Rafael and 131 passengers debarked the northbound buses at San Rafael for an average of nine passengers southbound and 5½ passengers northbound. Although Manning might be willing to operate buses with similar frequency to accommodate these passengers to San Rafael, it is doubtful that he could do so economically.

#### FINANCES

As evidence of his financial ability to carry out his proposals, Manning introduced into evidence a personal balance

sheet which listed his assets at \$1,762,000 and his liabilities at \$45,000. He testified this was a correct statement of his assets and liabilities as of the date the exhibit was prepared. Cross-examination disclosed, however, that one asset of \$70,000 had been listed twice - once as a note receivable and once as stock ownership. Manning admitted the stock was his security for a loan. Further, detailed cross-examination disclosed that Manning's biggest asset, his interest in Manning Tank Lines which he valued at \$935,000, is wholly pledged to secure a bank loan to that corporation. These two concessions reduced his available assets by \$1,005,000.

Manning further testified, originally, that he would invest about \$280,000 in the operation - \$200,000 for working capital, \$60,000 as a down payment on 15 new buses (estimated to cost \$20,000 each), and between \$15,000 and \$20,000 for insurance. He testified later that he would initially invest only \$200,000, and that all of this would be borrowed.

A pro forma operating statement was submitted by Manning for a period of six months, based upon operations to be conducted during the temporary period prior to erection of the Marin shops.

For the purposes of this statement, he utilized Greyhound's actual gross revenues for the last six months in 1951, and added \$17,000 as prospective revenue from charter operations. For the expense side, he used Greyhound's transportation expense, which he claimed he could not reduce. All other expense figures were based upon his own calculations. The net result was a loss for the period of \$5,340. In this respect he testified that all he had to do to break even was forego his salary of \$1,000 a month.

Detailed questioning disclosed that his expense figures did not include pension fund contributions of \$17,000, employer's

share of federal and state social security and unemployment taxes estimated at \$15,000, and interest on borrowed working capital (\$200,000) and on the indebtedness to be incurred for new equipment (\$240,000), estimated at \$11,000. The addition of these items adds \$43,000 to Manning's first six months' loss. With respect to several other items of expense, the testimony was too indefinite to permit a conclusion as to accuracy.

Despite this showing, Manning steadfastly refused to make any commitment that he would invest additional capital in the business. We are left to surmise as to the fate of the operation if Manning cannot secure his Marin plant on a long-term lease basis. We are also left uninformed as to the source of the money to finance ten new buses each year for a minimum annual down payment of \$40,000.

#### CONCLUSIONS AND FINDINGS

*Q. 7. m*  
We are of the opinion that the evidence related herein indicates that Manning has ~~spent little time in preparation or thought for~~ *not given careful thorough consideration to all phases of* this undertaking. On cross-examination he changed his position relative to both operations and finances.

The Commission has a right to require that a purchaser of an operation of the size and importance of Greyhound's Marin Service should give careful and thorough consideration to all phases of his prospective operation.

The record also discloses that in several particulars the proposed transfer would result in a diminution of service to passengers and that there is a very serious question as to the sufficiency of the capital that Manning is willing to commit to the operation.

After thorough consideration of the entire record, we are of the opinion, and so find, that the proposed transfer would be

adverse to the public interest. Accordingly, the application will be denied.

O R D E R

Public hearings having been held, and the Commission having found that the authority sought herein would be adverse to the public interest,

IT IS ORDERED that the application be and it is hereby denied.

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

Dated at San Francisco, California, this 11<sup>th</sup> day of August, 1952.

Q. J. [Signature]  
President  
Harold A. [Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
Commissioners



APPENDIX A

ROUTES PROPOSED TO BE TRANSFERRED

Between San Rafael and Corte Madera Road Junction:

From San Rafael, over unnumbered highway via San Anselmo, Ross, Kentfield Corners, Kentfield, Larkspur and Corte Madera, to Corte Madera Road Junction.

Between Inverness and San Anselmo:

From Inverness, over unnumbered highway to Point Reyes Station, thence over California Highway 1 to Olema, thence over unnumbered highway via Tocaloma, Lagunitas, Woodacre and Manor, to Fairfax, thence over Sir Francis Drake Boulevard to San Anselmo.

Between Landsdale and San Anselmo:

From Landsdale, over San Anselmo Avenue to San Anselmo.

Between Kentfield Corners and Greenbrae:

From Kentfield Corners, over Sir Francis Drake Boulevard, to junction U. S. Highway 101 (Greenbrae).

Between Mill Valley and Manzanita:

From Mill Valley, over Blithedale Avenue to Alto, thence over unnumbered highway via Tamalpais High School to junction California Highway 1 (Tamalpais Valley Junction), thence over California Highway 1 to junction U. S. Highway 101 (Manzanita).

Between Mill Valley and Tamalpais High School:

From Mill Valley, over Miller Avenue to Tamalpais High School.

Between Alto and Tiburon Wye:

From Alto, over unnumbered highway to junction U. S. Highway 101 (Tiburon Wye).

Between Tiburon Wye and Belvedere:

From Tiburon Wye, over unnumbered highway via Belvedere Junction to Belvedere.

Between Belvedere Junction and Belvedere:

From Belvedere Junction, over unnumbered highway via Tiburon to Belvedere.

Between Bolinas and Tamalpais Junction:

From Bolinas, over unnumbered highway to junction California Highway 1, thence over California Highway 1 to Stinson Beach, thence over unnumbered highway via Pantoll, Bootjack, Alpine Lodge and Muir Woods Junction to junction California Highway 1 (Dias Ranch), thence over California Highway 1 to Tamalpais Valley Junction.

Between Stinson Beach and Muir Woods Junction:

From Stinson Beach, over California Highway 1 to junction Frank Valley Road (Muir Beach), thence over Frank Valley Road via Muir Woods to Muir Woods Junction.

Between Waldo Junction and Fort Baker Junction:

From Waldo Junction, over unnumbered highway via Sausalito and Fort Baker to Fort Baker Junction.

Application No. 33374 - Dissenting Opinion

I dissent.

The record upon which the decision is based was made during the closing days of the recent strike on the Greyhound System. It is not addressed to conditions existing today.

Applicants should have an opportunity to make a record under present conditions, not under the stress of a strike period. Marin County is entitled to an operation free from the recurring service suspensions of the farflung Greyhound System.

*Justus F. Calver*  
Commissioner

I concur in the dissent.


In addition, I am of the opinion that the findings in the decision are not supported by the record. In a proceeding concerning the transfer of certificated rights, involving a willing seller and a willing buyer, the statute requires a showing on the part of applicants that the transfer will not be adverse to the public interest.

I am of the opinion that the record amply demonstrates that the transfer would not be adverse to the public interest. The only grounds upon which the Commission may deny a transfer of public utility property rights is on the grounds of adversity of public interest. Therefore, in a denial the Commission is constrained to set forth clearly and precisely wherein the adversity lies. Contrary to the "conclusions and findings" of the majority decision the record shows that the transferee has an adult lifetime of success, without exception, in transit operations of the character involved in this proceeding.

Furthermore, the record amply demonstrates transferee's financial success, stability and resources far beyond the capital requirements of the Marin operations, provided the latter are operated on a sound economic basis. The record likewise shows conclusively that the transferee proposed an even more complete and extensive service for Marin County than that offered by the present operator who is without incentive to render improved service because of continued operating losses and who has expressed an unwillingness to continue the Marin operations unless required to do so.

There is also evidence in the record which conclusively shows that the Marin operations have been a burden for many years past on the system-wide operations of the Pacific Greyhound Lines, both financially and from the point of view of operations and management.

I am of the opinion that the transportation interests of Marin County would best be served by an energetic, independent operator free from the burdens and problems of the vast inter-city operations of Pacific Greyhound Lines.

  
Commissioner