

ORIGINAL

Decision No. 56883

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 Sequoia Stages, a corporation, doing)
 business under the name and style of)
 EASTSHORE LINES, for a certificate of)
 public convenience and necessity to)
 operate a passenger stage service)
 between Orinda, and Lafayette, Contra)
 Costa County and Berkeley, Alameda)
 County.)

Application No. 39410

Application of THE GREYHOUND)
 CORPORATION for authority to abandon)
 its authorized service between)
 Berkeley and Temescal Junction.)

Application No. 39428

Gerald H. Trautman, for applicant The Greyhound Corporation.
C. W. Overhouse, for the Commission staff.

OPINION AND ORDER ON REHEARING

The Greyhound Corporation (Western Greyhound Lines Division) by its application filed September 25, 1957, requested authority to abandon its passenger stage service (Route No. 11.05) between Berkeley and Temescal Junction. The application was consolidated for the purpose of hearing with the prior filed application of Sequoia Stages, doing business as Eastshore Lines, which requested authority to extend its service from Lafayette to Berkeley, duplicating applicant's route No. 11.05.

By Decision No. 56264 dated February 18, 1958, the Commission authorized Eastshore Lines to extend its service as requested. Because of the dubious financial success of the operation, the Commission, by Decision No. 56265, also dated February 18, 1958, authorized applicant conditionally to suspend operations for a period ✓

of five years and required it to stand prepared to reestablish operations in the event Eastshore Lines was compelled to discontinue service.

On April 15, 1958, the Commission issued an order granting rehearing of the matter. Rehearing was held before Examiner Thomas E. Daly on May 16, 1958, at San Francisco.

Applicant contends that the Commission has neither the constitutional nor statutory power to order conditional suspensions of service; that the order is not responsive to the application; that the decisions are not in the interest of efficient and economical service for the public, in that Eastshore Lines would have little incentive to conduct an efficient and enduring operation, knowing that it could terminate its service at any time; that the decisions result in unfairness and prejudice to applicant in that it is required to guarantee an operation over which it has no control. Applicant further contends that both applications should be either granted or denied.

Applicant is a large carrier possessing extensive operating authority within the State. Like most businesses some phases of its operations are more remunerative than others and it is only good business for it to want to make prudent changes. From a business point of view it would be prudent to abandon unprofitable or marginal operations in favor of smaller carriers. However, if applicant were authorized to abandon and Eastshore Lines failed to provide service, then that portion of the public which has relied on such service would suffer. Applicant, being a certificated carrier, enjoys many rights; but with each right there exists a corresponding duty to the public.

Certainly it is the duty of this Commission to safeguard the public against being deprived, avoidably, of needed service. Had we accepted Greyhound's thesis that our alternatives lay between granting these applications unconditionally or denying them, we should have had to deny them; because Greyhound's ability to continue the service is much more certain than Eastshore's. Our orders were designed to accommodate the applicants while still assuring service to the public. Under them, Greyhound would be relieved of the duty to serve for as long as Eastshore continued to serve, and Eastshore would have a full opportunity to develop the business without competition from Greyhound. Only if Eastshore were compelled to abandon within five years would Greyhound be required to resume the service to which it is presently dedicated. It must be remembered that it was the applicants which sought these modifications of their operating authority. There was no public demand for the change. We acceded to their requests to the fullest extent that we could do so consistently with the public interest.

It is clear that the authority granted to Greyhound in Decision No. 56265 is permissive only. If Greyhound elects not to accept the permission granted therein to suspend operations on its Route No. 11.05, it is not required to do so. While it was not the intention of the Commission to make mandatory the provisions of Decision No. 56264, relating to Eastshore, as is apparent from the fact that Eastshore was required to file a written acceptance of the certificate granted before it would be effective, there are certain provisions of the said order that are based on the assumption that Eastshore would accept the certificate. We shall remedy this situation by the order herein.

It is apparent that the traffic involved will not support duplicate services by the two applicants. After consideration, the

Commission is of the opinion and so finds that both orders should be amended so as clearly to preclude the possibility of such duplication, and also to remove any doubt as to the orders being permissive and not mandatory. In all other respects, they should be affirmed.

O R D E R

Rehearing having been held and the Commission being informed in the premises,

IT IS ORDERED:

1. That Decision No. 56265 is hereby amended by adding, at the end of paragraph (6) on page 6 of the mimeographed version thereof, the following:

"Furthermore, the authority herein granted shall expire unless The Greyhound Corporation shall, within thirty days after the date hereof, notify the Commission, in writing, that it accepts all of the terms and conditions of this order and has elected, on the basis of the permission herein granted, to suspend service on its Route No. 11.05."


2. That Decision No. 56264 is hereby amended by striking the last sentence on page 6 thereof, fixing the effective date, and inserting in lieu thereof the following:


"The effective date of this order shall be twenty days after The Greyhound Corporation shall have notified the Commission, in writing, of its election to accept the permission extended in Decision No. 56265 and to suspend operations on its Route No. 11.05."


3. In all other respects, both of the said orders are hereby affirmed.

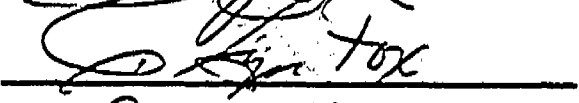
The effective date of this order shall be twenty days after the date hereof.

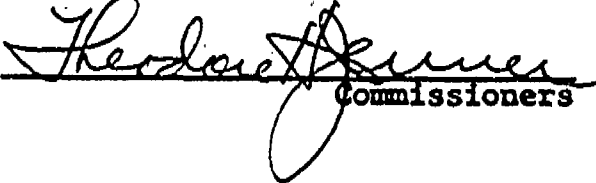
Dated at San Francisco, California, this 24th day of June, 1958.



President








Commissioners