

Decision No. 60620**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 W. L. Winner III, an individual, doing
 business as BATCO, to acquire, and
 American Buslines, Inc., a Delaware
 Corporation, to transfer to W. L.
 Winner III, certificates of public
 convenience and necessity issued
 under Decisions No. 35292 and
 No. 42697.

Application No. 42214

Pete H. Dawson, for applicant W. L. Winner III.Charles W. Overhouse, for the Commission staff.O P I N I O N

In this application, filed on May 4, 1960, and amended on May 16, 1960, the Commission is requested to authorize American Buslines, Inc., to sell and W. L. Winner III, doing business as BATCO, to purchase certain certificates of public convenience and necessity as a passenger stage corporation for the transportation of passengers, baggage and shipments of express between Sacramento, Walnut Grove, Rio Vista, Pittsburg, Concord, Walnut Creek, Oakland and San Francisco. A public hearing was held before Examiner James F. Mastoris in San Francisco on June 17, 1960 at which time evidence was presented and the matter submitted upon the filing of late-filed exhibits.

Specific Authority Requested

The proposal of the applicant contemplates the transfer of American Buslines' operative rights to W. L. Winner upon the approval of this Commission as to intrastate authority and the Interstate Commerce Commission with respect to the interstate rights. The written contract to sell entered into by the parties specifies that the buyer shall pay \$30,000, \$12,000 for each certificate and \$6,000

for two intercity type buses. These amounts will be paid to the seller when both regulatory commissions approve these transactions. On March 30, 1960 the Interstate Commerce Commission authorized the transfer of the interstate certificate.

Background and Experience of Transferee

Mr. Winner is president of the Bay Area Transportation Company, a California corporation, which is presently engaged in the operations described as charter bus transportation, under contract, of school children, military units and similar passenger groups. He owns and controls 51 percent of the outstanding stock. There are ten stockholders in this family-employee-controlled corporation.

Applicant Winner sought out American Buslines in order to purchase these certificates so that he could augment and supplement his present operations, and eventually integrate same, with the new transit business.

Nature of Operations Proposed Upon Transfer

Upon consummation of the transfer herein proposed applicant Winner intends to operate between San Francisco and Sacramento over California Highways 24 and 4, the so-called "river route", with four, instead of two schedules, and with larger and more modern buses. Because of the expected integration of Bay Area Transportation Company's operations with the new business it is contended that economies can be realized over this route to an extent not heretofore experienced by the transferor. Upon approval of this application the purchaser plans to incorporate and do business over the proposed line as a corporate carrier.

No study was made of American Buslines' prior operations with this route in view of the suspension of transportation activities experienced by said transferor as the result of a recent strike. It is alleged that a preliminary study discloses that applicant Winner's

cost of operations for these 412 daily bus miles would amount approximately to 26 cents per mile for drivers' wages and running expenses. New and additional business, not currently experienced by said American Buslines, will be stimulated, it is claimed, by active solicitation and wide-spread publicity in the towns and communities to be served. It is expected that the City of Antioch will provide the bulk of the passenger traffic to San Francisco and Sacramento.

At present The Greyhound Corporation operates over California Highway 24 to Antioch and California Highway 4 to Stockton.

Financial Fitness of Transferee

Funds to purchase these certificates were advanced by employees and friends of Mr. Winner. Upon incorporation of the new carrier, stock will be issued to said employees and friends to cover said loans. It is contemplated that certain promotional stock will be issued to Mr. Winner for his expected services to the new corporation. Said applicant did not advance any portion of the \$30,000 to be paid to the seller.

Operations of the transferor prior to and subsequent to the aforementioned strike have been unprofitable. If the new line initially operates at a loss additional finances to support the continuance of the business are expected to be forthcoming from said employees and friends of Mr. Winner rather than from the "charter bus" corporation.

In order to provide financial assistance to the new operation Mr. Winner plans to apply to this Commission for a rate increase within 18 months from the effective date of this decision.

Findings

Based upon the evidence of record the Commission finds that:

- (1) Providence of the proposed operation is in doubt. Applicant Winner must at least show that the transportation offered by his

organization promises to be compensatory. This he cannot do. With full costs of $34\frac{1}{2}$ cents a mile on the anticipated operations his firm would have to realize a gross revenue of 36 cents a mile in order to experience a small profit. Such revenue is highly problematical in view of the evidence of record that The Greyhound Corporation's gross revenue between San Francisco and Antioch in recent years has only been 28 cents per mile. Revenue anticipated between Antioch and Sacramento could not be expected to offset this difference. Furthermore, preparatory studies made by American Buslines indicates that it realized only 25 cents per mile between San Francisco and Antioch during the period when it was not on strike.

(2) The financial success of the entire venture depends primarily on applicant Winner's success before this Commission on four additional and separate applications, as yet unfiled. As he concedes in his testimony, the entire operation can only become profitable in the immediate future when: (a) upon receiving the authority herein requested this Commission also authorizes the transfer of his operative rights to the corporation to be formed and authorizes the issuance of stock by said corporation; (b) this Commission authorizes the transfer of The Greyhound Corporation's certificate between San Francisco and Antioch to said corporation; (c) the Commission authorizes the transfer of American Buslines' certificate between Sacramento and Roseville to said corporation, and (d) the Commission authorizes a fare increase.

Obviously, under these circumstances such plans are too speculative at this time.

(3) There is a serious question as to the sufficiency of the capital that will be available for the new operation in view of the amount already committed for the purchase herein referred to, the possibilities of obtaining new capital from the same sources, the

present \$5,000 deficit in Bay Area Transportation Company's books and the doubtful market value of the \$25,100 shares of the Bay Area Transportation Company held by Mr. Winner.

(4) If The Greyhound Corporation's certificate is not acquired then said carrier will be in competition with applicant Winner over most of the route where additional patronage can be anticipated. Nothing has been shown to demonstrate that the new operator can survive this competition for any length of time under the present plans and proposals.

Conclusions

It is apparent that the purchaser has not given careful and thorough consideration to all phases of his prospective operation. He has hopes of obtaining new business by active solicitation and newspaper publicity not only from his competitors, but elsewhere. However, we can see no definite plan for securing such new or additional bus passengers. Evidence is thus too speculative to warrant a grant of authority. In light of the foregoing findings of fact the Commission finds and concludes that the proposed transfer would be adverse to the public interest. Accordingly, the application will be denied.

O R D E R

Public hearing having been held, and the Commission having found that the authority herein requested 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 days after the date hereof.

Dated at San Francisco, California, this 23rd day of August, 1960.

Ernest W. Pease
President

Walter J. Brady
E. J. L. L. L.

Commissioners

Peter E. Mitchell
Commissioner of Theodore H. Jenner, being
necessarily absent, did not participate
in the disposition of this proceeding.