

ORIGINALDecision No. 70262

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GREYHOUND LINES, INC.,
WESTERN GREYHOUND LINES DIVISION, for
an order authorizing increases in San
Francisco Bay Area commutation fares. }

Application No. 46833
Filed July 23, 1964;
Amended January 25, 1965

Application of Greyhound Lines, Inc.,
Western Greyhound Lines Division, for
an order authorizing a statewide
increase in intrastate passenger
fares other than commutation fares in
Peninsula, Contra Costa and Marin
commutation services. }

Application No. 46904
Filed August 19, 1964

Investigation into the operations,
rates of fare, practices, routes,
schedules, tariffs, service equipment
and facilities of Greyhound Lines,
Inc., Western Greyhound Lines Divi-
sion, in the San Francisco Bay Area. }

Case No. 8009
Filed September 22, 1964

FOURTH INTERIM OPINION

Decision No. 69539, dated August 12, 1965, in these proceedings, authorized Greyhound Lines, Inc., Western Greyhound Lines Division (Greyhound) to increase its fares for California intrastate service and directed Greyhound to initiate certain improvements and changes in its San Francisco Bay Area commutation services.

Described in the Order Instituting Investigation, in Case No. 8009, are proposed route extensions along Skyline Boulevard and Ygnacio Valley Road. A statement of the evidence adduced and the position of Greyhound and other parties concerning service along said routes is contained in Decision No. 69539 and is not repeated herein. That decision stated that proposed additional commute services along Skyline Boulevard and Ygnacio Valley Road involve questions of economic impact as well as the public interest, and that an expeditious determination of the issues in these proceedings other than

those involving Skyline Boulevard and Ygnacio Valley Road services required that the latter be deferred for consideration in a separate opinion and order.

The principal issue concerning these routes is whether the public interest requires that they be operated. With respect to the Skyline Route, it is clear that the proposed service would be more convenient to persons residing adjacent to Skyline Boulevard than service along either of the present paralleling Coast Highway or El Camino Real routes. The need for additional peak-hour commutation service along the Skyline Boulevard route as far south as San Bruno Avenue (in San Bruno) is well supported by the record. The Commission staff testified that substantial use will be made of this route. Greyhound's opposition to this route for economic reasons is outweighed by the fact that the public interest requires the operation of commute service along this route by Greyhound. Losses on this route, as well as losses on other commutation operations in the San Francisco Bay area are offset by the fares authorized for mainline services conducted by Greyhound. Discussed hereinafter is the issue whether the Commission can direct Greyhound to provide commutation service along a portion of a route for which it is certificated to provide only a seasonal service.

The need for the Ygnacio Valley route described in the Order Instituting Investigation, in Case No. 8009, is also well-supported. This route would not require Greyhound to provide additional buses (as would the Skyline Route); the only additional cost would be operation over an additional mile of route. The only issue concerning the Ygnacio Valley route is the question whether Greyhound can be required to operate over a route which is not included in its present certificate, but is within the present area in which Greyhound is authorized to serve.

From the legal opinions cited by Greyhound in its argument (Cal. Water & Tel. v. Pub. Util. Com., 51 Cal. 2d 478, and Richfield Oil Corp. v. Pub. Util. Com. 54 Cal.2d 419), it may be concluded that Greyhound believes that it has not unequivocally dedicated its property to public use with respect to the Skyline Boulevard and Ygnacio Valley routes; and, therefore cannot be required to serve such routes.

Greyhound possesses a certificate of public convenience and necessity to operate seasonal service between San Francisco and Boulder Creek via Skyline Boulevard. Such route, therefore, has been dedicated to public service. A requirement for additional service along a route heretofore dedicated to public service by a public utility is well within the jurisdiction of this Commission to order. (Hollywood Chamber of Commerce v. Railroad Com., 192 Cal. 307, 314.) The question remaining is whether the Commission can direct Greyhound to furnish a different type of service from that authorized in its certificate. We find and conclude that under Sections 701 and 761 of the Public Utilities Code and related statutory and constitutional provisions, the Commission can direct Greyhound to institute the proposed peak-hour commute service along the Skyline Boulevard route. Such service along Skyline Boulevard is not feasible, however, from the standpoint of safety until adequate turnouts are constructed by the responsible public bodies. Greyhound will be authorized and directed to establish a peak-hour commutation service along the Skyline Boulevard route by the order herein. Such service should be commenced when proper turnouts are constructed. The cities of South San Francisco, Pacifica, Daly City, and San Bruno should inform the Commission the dates that safe turnouts for loading and unloading of bus passengers have been completed.

Concerning the Ygnacio Valley route, the proposed service is not along a route for which Greyhound presently holds a certificate, but is within the present area in which Greyhound is authorized to serve. To hold that the Commission cannot direct operations over such alternate route would negate the effective regulation of public transportation service. The Commission has, in prior proceedings, prescribed routes over which passenger stage corporations shall operate within the communities they are authorized to serve.¹ A minor modification such as that involved in the Ygnacio Valley proposal is within the Commission's jurisdiction. In the circumstances, the operation by Greyhound of an alternate route via Ygnacio Valley Boulevard and Oak Grove Road as described in the Order Instituting Investigation, in Case No. 8009, is required in the public interest and should be instituted at fares comparable to those on paralleling routes.

Findings and Conclusions

The Commission finds as follows:

1. The public interest requires the establishment of peak-hour commutation service between San Francisco and points on Skyline Boulevard (State Route 35) from its junction with Coast Highway (State Route 1) in Daly City, south to the intersection of Skyline Boulevard and San Bruno Avenue in San Bruno. Safety of operations will not permit the inauguration of said service until adequate turnouts for bus stops are constructed by the responsible public authorities.

2. The public interest requires the establishment of an alternate route for commute service during peak periods via Ygnacio Valley Boulevard and Oak Grove Road in Concord and Walnut Creek.

¹ For example, see Pacific Greyhound Lines, 54 Cal. P.U.C. 675, 701.

3. To the extent not granted in Decision No. 69539, the fare increases sought in Application No. 46833, as amended, and Application No. 46904 should be denied.

The Commission concludes that Greyhound should be authorized and directed to establish peak-period commute service to and from San Francisco via the Skyline route and the Ygnacio Valley alternate route, as set forth in the following order.

FOURTH INTERIM ORDER

IT IS ORDERED that:

1. Greyhound Lines, Inc., Western Greyhound Lines Division, is hereby authorized and directed to establish, within thirty days after the effective date of this order, peak-hour commutation service between Concord and San Francisco termini via Ygnacio Valley Road and Oak Grove Road, as an alternate route.

2. Greyhound Lines, Inc., Western Greyhound Lines Division, is hereby authorized and directed to establish, within thirty days after notification to Greyhound and the Commission that turnouts for the safe loading and unloading of bus passengers have been completed, peak-hour commutation service between San Francisco termini and the intersection of Skyline Boulevard (State Route 35) and San Bruno Avenue in San Bruno via Skyline Boulevard. Notification in writing to the Commission and Greyhound shall be made by the cities of Pacifica, Daly City, San Bruno and South San Francisco of the completion of construction of bus turnouts along Skyline Boulevard by said cities.

3. Except to the extent granted by Decision No. 69539 in these proceedings, Application No. 46833, as amended, and Application No. 46904 are hereby denied.

4. Greyhound Lines, Inc., shall establish tariff fares authorized in ordering paragraph 1(subparagraph (C)(2)) of Decision No. 69539 for the additional service described in ordering paragraph 1 of this order.

5. Tariff and timetable filings shall be made effective on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized and directed.

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

Dated at San Francisco, California, this 18th day of JANUARY, 1966.

[Handwritten Signature]

President

[Handwritten Signature]

Commissioners

I concur herein. My views as to the public necessity for bus service along Golden Gate Blvd will be set forth separately.
[Handwritten Signature]

We will file a dissenting opinion.

*Frederick C. Hobloff
George T. Hoover*

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CONCURRENCE

BENNETT, William M., Commissioner, Concurring Opinion:

The order today requiring the establishment of commutation service along the Skyline Boulevard is in response to existing public needs. Greyhound takes the position that it is under no obligation to render such service inasmuch as there is not the classic dedication here which usually obtains. I wish to point out that the basic law of dedication in this State came early and was founded upon the tests and standards whereby a street was charged to have been dedicated to the public use. That concept which has served a State to now is no longer adequate for the needs of a growing economy. Suburban development creates public demand where none heretofore has existed and one of the crises which faces people and government today is the lack of adequate transportation facilities.


There is a compact between Greyhound and the people affected by those routes. In the instant case Greyhound has a certificate presently to operate a seasonal service and in that respect has made a commitment to public transportation. I do not concede the law nor the relationship between a public utility and a regulatory body acting for the public to be so narrow as to preclude ordering relief where relief is dictated. And let it be pointed out that as a matter of law the carrier here is entitled to a fair return by way of reasonable rates and charges to compensate for the service being ordered. Greyhound has been given almost exclusive operating rights in and about most of California. And that great privilege carries with it corresponding obligations. I think it reasonable to adopt the view in 1966 that when a carrier as here sought and obtained such

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statewide operating rights that it was on notice that it was doing so in a growing State with growing public demands for transportation. And we do not have to decide whether the Commission may order service on all routes in California where request is made.

Here we are ordering service along the Skyline Boulevard where substantial use will be made of the transportation offered. Here we are ordering service where there is public need for such and demand has been made. And further, as I have pointed out, this Commission is bound to permit compensatory rates for such service.

Accordingly I concur in the Interim Opinion herein.


WILLIAM M. BENNETT
Commissioner

San Francisco, California
January 18, 1966

ORIGINAL

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DISSENTING OPINION OF COMMISSIONERS
GROVER AND HOLOBOFF

We dissent.

The order establishing Skyline commute service is illegal as to Greyhound; it unfairly discriminates against Californians outside the Skyline area; it is a burden upon the poor.

I

The unlawful action of the Commission majority is underscored by the concurring opinion of Commission^x Bennett, in which the law of dedica-^(was) tion--reaffirmed by the California Supreme Court as recently as 1960^{1/} -- is expressly rejected and a new law "for 1966" is boldly announced.

Dedication deals with the essence of things. It does not mean that minor route changes or service improvements cannot be required by Commission order; the directive for ^{HLL FSH} Ygnacio Valley is of this minor type ^{and HLL FSH} ^{HLL FSH} ^{is} both reasonable and lawful. The Commission does not have the power, however, to impose a major burden beyond what the utility has held itself out to do. Skyline commute service is just such a major burden and goes

1/ Richfield Oil Corp. v. Pub. Util. Comm. (1960), 54 Cal.2d 419, 430.

beyond anything the company has thus far undertaken. At present Greyhound provides only a seasonal service there, and even that offering is not on a commute basis.^{2/} It has been proved on this record beyond any question that Bay Area commute operations result in enormous losses to Greyhound. Indeed, the problem is general; our emerging urban transportation crisis is largely due to the heavy cost of commutation. That crisis cannot lawfully be solved by forcing private entities like Greyhound to pay the bill. The near-billion dollar program of the Bay Area Rapid Transit District is stark evidence of the size of the burden involved.^{3/} While the electorate may lawfully undertake such tax supported programs, the law does not permit this Commission to impose the loss upon privately owned companies beyond the limits of their prior dedication.

It is argued that Greyhound will not really sustain the loss because it will be shifted to Greyhound's other ratepayers. To a large extent this is true--and we shall comment presently upon the injustice of it! But the evidence also shows that the losses on Greyhound's existing commute operations are steadily mounting and that Greyhound faces increasing competition on many of the main line operations which have heretofore supplied the extra profits necessary to offset commute deficits; fare competition with the airlines is becoming especially acute. It is only a question of time until there will not be enough extra profit from the main line traffic to sustain the commute service. Unless the Commission will then permit curtailment of Greyhound's commute operations, the losses involved will become a burden directly upon the company.

Even today Greyhound is losing customers on profitable routes because the rates are set above compensatory levels in order to pay off deficits in the commute service. To the extent such losses occur in operations to which Greyhound has already dedicated itself, the company may not

^{2/} The statement in the concurring opinion that Greyhound has "statewide operating rights" is simply not true. (See, for example, 63 P.U.C. 741.)

^{3/} Another good example is the more than eight million dollar annual operating deficit of the San Francisco Municipal Railway, which is defrayed through tax dollars.

be in a position to complain; but the law does not permit us to add new losses beyond the scope of that dedication.

II

We protest the Commission majority's willingness to force the state as a whole to pay transportation costs of the Skyline commuters. Heavy losses on the Bay Area's commute operations are the central fact of this case, and at the present level of commute fares the Skyline route will also be a loser.^{4/} Although the Commission's order does not actually fix the fares to be charged by Greyhound for the Skyline commute service, the majority opinion expressly states that losses "on this route" are offset by the fares authorized for main line services; it is plain that losses are contemplated-- and that they are to be borne by other ratepayers.^{5/}

The concurring opinion of Commissioner Bennett goes even further-- he candidly points out that the rest of the state need not expect to be given the same treatment accorded the Skyline area. The reason is obvious. Can the Commission order comparable commute service in Fresno, Los Angeles, Eureka, Sacramento and San Diego, and still expect that Greyhound's profitable operations elsewhere will subsidize such services? Obviously not, because Greyhound's main line operations are already strained to near limits; they simply cannot be made to generate enough extra profit to subsidize commute operations everywhere in California. Under these circumstances it is most unfair to select the Bay Area for additional favored treatment at the expense of the rest of the state.

It is true that in Decision 69539 (the Commission's 1965 decision which granted the fare increases applied for herein), Greyhound's main line fares were raised in order to offset the losses in the existing commute

^{4/} The evidence shows that on Skyline, between San Francisco and San Bruno, for example, Greyhound would have to charge about \$12 for a 20-ride book in order to meet expenses, whereas a 20-ride book on the existing El Camino Real and Coastal routes now sells for about \$7.00 for comparable distances. *Edith Felt*

^{5/} During our deliberations on this matter the Commission considered, and the majority expressly rejected, a proposal that the requested service be made conditional on the charging of compensatory fares.

operations; but the new Skyline commute losses are not the same. The existing commute deficits have developed over the years as a result of deterioration of formerly profitable services to which Greyhound has dedicated itself. In view of such prior dedication, it was natural for the Commission in Decision 69539 to adhere to the historical rate relationships which have long been followed for these operations.^{6/} Moreover, there was evidence in this proceeding that many of the communities involved (particularly in Marin County and the East Bay) are working on long-range solutions to their transit problems; moving drastically toward compensatory commute fares in this case might seriously have disrupted the service and might have complicated these current efforts to establish a satisfactory transportation system in the Bay Area. The new Skyline service, on the other hand, cannot be justified as a part of any such holding operation. Indeed, there is no early prospect of a solution in the Skyline area; Greyhound's commute losses there can be expected to continue, and to grow, for many years to come.

It is one thing to continue things as they are, as Decision 69539 does; it is quite another to add ~~to~~^{/// 484} a new burden.

III

There is no doubt that many persons living in the Skyline area need public transportation. But their needs must not be met at the expense of others who are in greater need.

The harsh fact is that this Commission does not have the proper tools to help the Skyline commuters. When publicly supported transit programs are established, the financing can be arranged in a variety of ways,

6/ This is not to say, however, that even such prior dedication commits the Commission forever to find ways to finance losing operations. In considering transit operations, the Commission has recently authorized contractions of service in the interest of forestalling over-all rate increases. See, for example, Decision 69719 dated September 22, 1965, in Application 47580 (Pasadena City Lines). See also San Diego Transit System's Advice Letters dated November 18, 1963 and January 15, 1964, giving notice of schedule changes designed to result in a reduction of 424,087 bus miles annually in order to reduce operating losses incurred on unprofitable routes. The Commission permitted the changes to become effective.

and the appropriate governmental agency (or the voters themselves) can decide just where any resulting tax burden should fall. But when this Commission undertakes to subsidize commuters, there is only one available source for the subsidy--Greyhound's main line customers. Unfortunately the main line customers, as a class, are in no position to pay the transportation costs of others.

Millions of Californians (including all five Commissioners) enjoy the clean air, reduced congestion, and sylvan vistas of the suburbs. But other Californians are not so fortunate. An unemployed laborer travelling from Los Angeles to Sacramento to look for work is not likely to go by plane, and he may not own a car. For him, Greyhound's main line service is a necessity. He can ill afford to pay a higher fare in order to subsidize commuters between San Francisco and San Bruno. And even between Los Angeles and San Francisco, where the lowest plane fare is only \$12.00, thousands of Californians each year take an entire day to go by Greyhound; the reason for all too many of them is that Greyhound's fare is \$9.65 and they cannot afford the extra \$2.35. Yet the Commission majority is now prepared to call upon these ratepayers to help defray the transit expenses of San Francisco - San Bruno commuters.

That is the tragedy of this Skyline order: in large degree it is the poor who will pay.

George E. Grover

Fredrick B. Holoboff

Commissioners

February 11, 1966