

**ORIGINAL**

Decision No. 71861

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
OCTAVIO MARTINEZ doing business )  
as LOS ANGELES BUS LINE )  
for certificate of public convenience )  
and necessity to operate a passenger )  
service between Los Angeles and )  
San Ysidro. )  
(Amended Title)

Application No. 48778  
(Filed September 8, 1966;  
amended November 14, 1966)

Oscar R. Cummins and Paul Wylar,  
for applicant.  
Leland E. Butler, for The Atchison, Topeka  
and Santa Fe Railway Company;  
William L. McCracken, for Western Greyhound  
Lines, Division of Greyhound Lines Inc.;  
Russell and Schureman, by R. Y. Schureman,  
for American Bus Lines, Inc., protestants.  
Robert W. Russell, by K. D. Walpert, for  
City of Los Angeles, interested party.  
Edward C. Crawford, Fred G. Ballenger, and  
W. R. Kendall, for the Commission staff.

O P I N I O N

Public hearings on the above application were held before  
Examiner Rogers in Los Angeles on November 4 and November 22, 1966.  
The matter was submitted on the latter date.

By the application as amended, Octavio Martinez doing  
business as LOS ANGELES BUS LINE (applicant) requests a certificate  
of public convenience and necessity as a passenger stage corporation  
between a terminus at 3609 Whittier Boulevard, Los Angeles, Califor-  
nia, on the one hand; and the San Ysidro portion of the city of  
San Diego, on the other hand, via the following route:

From the office of applicant at  
3609 Whittier Boulevard to Rosemead Boulevard,  
Rosemead Boulevard to the Santa Ana Freeway  
(U. S. Highway 101 or Interstate Highway 5)  
to San Ysidro.

Return via reverse of the above route.

No stops are to be made at any point intermediate  
between the named termini. The one-way distance is 143 miles.

Fares

Applicant's proposed fares are \$4.00 per person each way  
with no reduced rates for minors.

Schedules

The proposed schedules are as follows:

From Los Angeles to San Ysidro:

<u>Depart Los Angeles</u>	<u>Arrive San Ysidro</u>
9:00 A. M.	12:00 Noon
5:00 P. M.	8:00 P. M.

From San Ysidro to Los Angeles:

<u>Depart San Ysidro</u>	<u>Arrive Los Angeles</u>
1:00 P. M.	4:00 P. M.
8:30 P. M.	11:30 P. M.

Service is to be rendered seven days per week.

Equipment and Personnel

Applicant will use two 9-passenger air-conditioned station  
wagons with which to render the proposed service. One vehicle is to  
be driven by applicant's nephew. Applicant will drive the other.  
The vehicles will be owned by the Safety Construction Corp., the  
stock of which is principally owned by the applicant. Both appli-  
cant and his nephew speak Spanish.

Terminals

The Los Angeles terminal will be the Safety Construction Corp.'s building at 3609 Whittier Boulevard, a three year old building containing 1200 square feet in which, in addition to an office, there is a restroom and a 20' by 40' waiting room. Applicant will rent a terminal in San Ysidro if the authority requested is granted.

Insurance

Applicant has made arrangements for public liability and property damage insurance as required by the Commission, at a cost of approximately \$75.84 per month (Exhibit 3).

Finances

As of October 27, 1966, applicant's current assets comprised cash in various local banks in the total amount of \$10,400. His only current liabilities were monthly payments, which total approximately \$600, on notes payable totaling \$89,200 (Exhibit 5). He receives approximately \$1,000 per month in installments on mortgages which total \$137,444 and a monthly salary from the Safety Construction Corp., of which he is the principal stockholder, in the amount of \$700. His net worth on October 27, 1966 was \$167,484. Applicant stated he will back the proposed venture to the extent of \$24,000.

Estimated Results of Operation

Applicant filed Exhibit No. 6, which is his estimated results of operation for a one-month period. This estimate is as follows:

Twenty-eight passengers to be carried per day at \$4.00 each. Monthly Income		\$3,360.00
Equipment payments	\$ 110.00	
\$50/300,000. Bodily Injury, and \$20,000. Property Damage Liability Insurance. Monthly payments	75.84	
Collision, Fire and Theft Insurance Monthly payments	25.58	
Gasoline-143 mi., one way; two trips 572 mi.; one gallon per 12 mi.; total gasoline used monthly, 1,440 gals. at \$.33 per gal.	475.20	
Monthly lubrication and car wash	30.00	
Tires	42.00	
Motor tune-up - Twelve times yearly	36.00	
Two drivers at \$20.00 per day	1,200.00	
Social security 3.6%	43.20	
Compensation insurance at 2.15% monthly	25.80	
Commercial licenses	5.00	
Los Angeles City Licenses at \$.60 per day - Monthly	18.00	
Licenses of the Board of Equalization and the use of Calif. State Highways at 1.5% of total gross annual receivables	75.60	
Advertising	35.00	
Depreciation of Equipment	75.00	
Office Rent	15.00	
Telephone	10.00	
Business License for City of San Diego	1.00	
Total Monthly Expenses		<u>2,298.22</u>
Net Profit - Monthly		<u>1,061.78</u>

The applicant admitted that his estimates were in some instances erroneous. For example, no allowance was made for income taxes, the rental for the terminal in San Ysidro (applicant estimated \$75.00 per month) was not included, and two vehicles are to be used but depreciation on one only was considered.

Public Witnesses for Applicant

Four persons other than applicants testified in support of the application, and the parties stipulated that if seven additional persons who were present at the hearing were called as witnesses they would testify that they speak Spanish or Mexican; that if the proposed service were authorized they would find it convenient to use from time to time; and that they have no complaints concerning the existing services. The parties further stipulated that two of the proposed witnesses were relatives of the applicant.

The testimony of the four witnesses who appeared and testified is summarized as follows:

Arthur Greene, who is employed by the Department of Public Utilities and Transportation of the City of Los Angeles but appeared in his individual capacity only, testified that non-licensed and non-regulated persons provide transportation service such as proposed by the applicant and that passenger stage corporations are not now getting this business. He stated that Greyhound (a protestant) has no bilingual ticket agents and many of the people who desire to use the transportation cannot speak English.

Armando Torres, the publisher of a Spanish language newspaper having a circulation of 10,000, testified that in his opinion there is a need for the proposed transportation between East Los Angeles and the Mexican border; that the existing carriers do not have Spanish-speaking employees; and that he frequently receives telephone calls inquiring if there is available any such service as proposed, with Spanish-speaking drivers.

A. P. Garcia testified that he is the field representative for Congressman Roybal; that the service is needed by the community; and that the congressman gets many inquiries for service such as that proposed.

Milton Navarette testified that he has a night club, and is a radio announcer (Station KLI) and the president of the Mexican Chamber of Commerce. He stated that he supports the application as he feels it is a chance to improve the bus service between Los Angeles and the Mexican border. He further testified that 40 percent of the people in the area of the proposed Los Angeles terminal do not speak English.

The applicant himself testified that he filed the application for the reason that the people in East Los Angeles want better service between said area and the Mexican border and that he feels he is responsible to the community so he filed the application.

In addition to the foregoing support of the application, numerous Los Angeles businessmen wrote to the Commission in support of the application. It appears, however, that none of said persons held themselves out to be prospective users of the proposed service.

#### Protestants

The application was protested by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), Western Greyhound Lines (Greyhound), and American Bus Lines, Inc. (American).

A Santa Fe traffic analyst testified that Santa Fe provides rail service between Los Angeles and San Diego; that it has three schedules per day in each direction; that its trains stop at Pico-Rivera in each direction; that Pico-Rivera is in the vicinity of applicant's proposed Los Angeles terminal; that Santa Fe's Los Angeles terminal is four miles from applicant's proposed Los Angeles terminal; that Santa Fe's train consist is determined by the demands of the traveling public; that between 1960 and 1965 both passenger revenues and passenger miles between Los Angeles and San Diego decreased 29.7 percent; that Santa Fe can handle additional passengers; that Greyhound provides service between the San Diego terminus of Santa Fe and San Ysidro; that the round trip fare via a combination of the two services between Los Angeles and San Ysidro is \$7.70; and that the applicant's round trip fare for the same trip would be \$8.00. The witness further testified that the Santa Fe can handle additional passengers and that it has had a decline in revenues due to competitions from buses, airlines and private automobiles.

The director of traffic for the Western Division of American testified that American provides service between a terminus in Los Angeles 4.5 miles from the applicant's proposed Los Angeles terminal and San Diego; that it has two terminals in San Diego; that between Los Angeles and San Diego service is via air-conditioned coaches with restrooms (Exhibit 11); that it provides five schedules daily in each direction between Los Angeles and San Diego; that in the Los Angeles terminal it has five Spanish-speaking employees; that in San Diego it has a Spanish-speaking employee; that it sells through-tickets between Los Angeles and

San Ysidro via a combination of American and Greyhound services; that it is one block between its San Diego terminal and the Greyhound San Diego terminal; that the load factor between Los Angeles and San Diego on the local runs is about 30 percent; and that the break-even point is approximately 50 percent. The witness further testified that in the past 10 years the airplane and private automobiles have decreased the load factor and that the time in transit between Los Angeles and San Diego via American varies between 3 hours and 30 minutes on some schedules and 3 hours and 50 minutes on other schedules.

The Greyhound traffic manager testified that Greyhound provides service between Los Angeles and San Ysidro via Whittier Boulevard and via the freeways; that it is very concerned with wildcat operations which are provided for approximately \$3.50 each direction between Los Angeles and San Ysidro; that Greyhound operates approximately six schedules per day in each direction between Los Angeles and San Ysidro (Exhibit 13); that some express schedules provide direct service, having an elapsed time of approximately 2 hours, 50 minutes; that it has additional schedules between Los Angeles and San Diego (Exhibit 12) and between San Diego and San Ysidro (Exhibit 14); that the load factor is 60 percent on the express service and 40 percent on the local service; that it has Spanish-speaking employees in all three terminals (Los Angeles, San Ysidro and San Diego); that it actively solicits and advertises for business (Exhibits 17-23 inclusive); and that it has competition from the airlines (Exhibit 25). The witness further testified that Greyhound would provide additional service between Los Angeles and San Ysidro via Whittier Boulevard if such service were required.



It was the opinion of the witness that the proposed service would take passengers from Greyhound and he stated that he was informed that the existing wildcat operators have taken as many as 400 passengers from Greyhound on a weekend.

Competitive Passenger State Service

The last sentence of Section 1032 of the Public Utilities Code is as follows:

"The Commission may, after hearing, issue a certificate to operate in a territory already served by a certificate holder under this part only when the existing passenger stage corporation or corporations serving such territory will not provide such service to the satisfaction of the Commission."

At the hearings, applicant stated that it is true that the Commission has consistently protected from competition the territory served by those utilities that have rendered efficient services at proper rates and have fulfilled adequately the duties they owe to the public. Applicant argued that the Commission has never carried the policy of regulatory monopoly to the length of guaranteeing a monopoly in all cases. Applicant stated the policy is modified by the public interest. He conceded that there are existing carriers operating in the same field but argued that this is no ground for withholding competitive service when public convenience and necessity require that there be more.

From the record, it is obvious that applicant bases his application primarily on the ground that there is a claimed lack of sufficient Spanish-speaking personnel employed by the existing carriers, and, secondly, on the claimed lack of direct transportation between applicant's proposed terminal in East Los Angeles and San Ysidro.

Relative to the second contention, the record shows that Greyhound has two local schedules per day southbound and three local schedules per day northbound between San Diego and Los Angeles, which, through connections at Santa Ana, traverse Whittier Boulevard directly past the applicant's proposed terminal. All of these services connect in San Diego with many local schedules between San Diego and San Ysidro. Prior to the completion of the Santa Ana Freeway five to six years ago, Greyhound operated six Los Angeles-San Diego schedules per day via Whittier Boulevard. On completion of the Santa Ana Freeway, the demand for the Whittier Boulevard service was reduced. Greyhound has stated it will add schedules via Whittier Boulevard if the demand develops.

Relative to the first contention, the record shows that all of the protesting carriers have Spanish-speaking personnel available. The record does not clearly show that the Spanish-speaking people are adequately informed that such personnel are available. We cannot say from the record that the protesting carriers have not provided and will not provide service to the satisfaction of the Commission (Decision No. 71482, dated October 25, 1966, in Applications Nos. 47365 and 47382, Tanner Motor Tours, Ltd. et al). Protesting carriers should advise the public through signs prominently displayed in each of their terminals that Spanish-speaking employees are available to assist at all times during regular business hours.

Findings

The Commission finds that:

1. Applicant has the finances and the ability to secure equipment, personnel and terminals which would enable him to commence and maintain service as a passenger stage corporation between East Los Angeles and San Ysidro.

2. Some Spanish-speaking people in East Los Angeles would occasionally use the service proposed by applicant.

3. Applicant's proposed fares are reasonable.

4. Greyhound provides direct passenger stage service between Los Angeles and San Ysidro with numerous schedules per day and could handle additional passengers in each direction without additional equipment. It provides service between Los Angeles and San Ysidro through East Los Angeles and would provide more if the traffic warranted such service.

5. Santa Fe and American provide service between Los Angeles and San Diego via several schedules each day and in combination with Greyhound provide service beyond San Diego to San Ysidro. Santa Fe and American could handle additional passengers with their existing schedules and equipment.

6. Santa Fe, American and Greyhound have Spanish-speaking personnel available to assist persons who speak only Spanish.

7. Each of the protesting carriers should be required to prominently display in each of its terminals and on its transportation equipment signs informing the public that Spanish-speaking employees will be available at the terminals during regular business hours and the location at which such employees may be reached.

8. Santa Fe, American and Greyhound each provides service between Los Angeles and San Diego. Greyhound provides service between Los Angeles and San Ysidro past applicant's proposed terminal on Whittier Boulevard, to the satisfaction of the Commission, and for that reason, as required by Section 1032 of the Public Utilities Code, the applicant's request for authority to serve between its proposed terminal on Whittier Boulevard and San Ysidro should be denied.

9. Neither public convenience nor public necessity requires that applicant be authorized to provide service as a passenger stage corporation between East Los Angeles and San Ysidro.

Conclusion

The Commission concludes that the application should be denied.

O R D E R

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

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

Dated at San Francisco, California, this 17<sup>th</sup> day of JANUARY, 1967.

[Signature]  
President  
[Signature]  
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Commissioners