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Decision No. 72814

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Robert J. Ruhland and Maury Swidler, general partners, and of Nathan Swidler and Stephen W. Hackett, limited partners, doing business as HI-WAY TOURS, A limited partnership, for a certificate of Public Convenience and Necessity for Passenger Sightseeing Service in the Area of San Mateo, San Francisco and Marin Counties.

Application No. 49114
(Filed January 30, 1967)

Application of THE GRAY LINE, INC. for a certificate of public convenience and necessity to extend its sightseeing pickup and return service to points in San Mateo County.

Application No. 49157
(Filed February 17, 1967)

In the Matter of the Application of John P. Jenkins, an individual, for a certificate of public convenience and necessity for passenger sightseeing service in San Mateo, San Francisco and Marin Counties.

Application No. 49204
(Filed March 15, 1967)

In the Matter of the Application of Ronan and Jeannie Erickson and John A. Kazy, a limited partner, doing business as BARBARY COAST TOURS, for a Certificate of Public Convenience and Necessity for personalized tours to the City and County of San Francisco from San Mateo County.

Application No. 49206
(Filed March 15, 1967)

Stephen W. Hackett, for Hi-Way Tours, applicants in Application No. 49114 and protestants in Applications Nos. 49157 and 49204.

Craig McAttee, for The Gray Line, Inc., applicant in Application No. 49157 and protestant in Applications Nos. 49114, 49204 and 49206.

Anthony V. Solerno, for Ronan Erickson, Jeannie Erickson and John A. Kazy, applicants in Application No. 49206.

John P. Jenkins, applicant in Application No. 49204.

Marshall G. Berol, in propria persona, interested party.

Hilton Nichols, for the Commission staff.

O P I N I O N

By each of the applications herein considered authority is requested to operate a certificated sight-seeing service from points in San Mateo County to various points of interest in the San Francisco Bay Area. The Gray Line, Inc. (herein referred to as Gray Line) takes the position that there is no need for such service, but, in the event the Commission should find to the contrary, it then requests that its application be granted.

A public hearing was held before Examiner Daly at San Francisco on March 20, 21, 22 and 23, 1967, with the matters being submitted upon concurrent briefs since filed and considered. On March 23, 1967, Gray Line filed a petition for a proposed report. After consideration, the petition will be denied.

Application No. 49114

On January 30, 1967, Robert J. Rubland and Maury Swidler, general partners, and Nathan Swidler and Stephen W. Hackett, limited partners, doing business as Hi-Way Tours, filed an application for a certificate of public convenience and necessity authorizing the operation of a sight-seeing service between all points in San Mateo County, on the one hand, and certain points of interest within the Counties of San Francisco and Marin, on the other hand.

Applicants propose to operate four tours. Tour No. 1 would include scenic points in San Francisco, such as the Civic Center, Fisherman's Wharf, Golden Gate Bridge, Ocean Beach, Golden Gate Park, Twin Peaks, and Candlestick Park. The tour would be approximately six hours. The proposed adult fare is \$6. Tour No. 2 would be to Muir Woods. The approximate duration is six hours and the proposed adult fare is \$7. Tour No. 3 is a combination of Tours Nos. 1 and 2. The approximate duration is eight hours and the proposed adult fare

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is \$10.50. The proposed child's fare for Tours Nos. 1, 2 and 3 is one-half the adult fare for children between the ages of 5 and 12 years. No fare is proposed for children under 5 years. Tour No. 4 is a night club tour limited to adults. It would commence at 6:30 p.m. and end at 2:30 a.m. The tour would include dinner at a fashionable restaurant in San Francisco and after dinner drinks at various night clubs. The proposed fare is \$21.75. It is the intent of applicants to commence operations with Tour No. 1 and after it has been established to inaugurate the other tours.

Initial service would be provided by a 1954 GMC 41-passenger bus, a 29-passenger Fibble bus and a 1967 Pontiac 9-passenger station wagon. The buses are equipped with air conditioning and public address systems. Additional equipment would be made available as required.

As of December 31, 1966, applicants Ruhland and Swidler indicated their net worth in the amount of \$71,574 and \$88,100, respectively.

Applicants allege that San Mateo County, particularly the north and easterly portion thereof, has experienced a tremendous growth in population and business development; there are in the county more than 100 overnight establishments containing more than 4,300 rooms, and in recent years a number of particularly fine motels have been constructed in the vicinity of the San Francisco International Airport and along El Camino Real; investigation into the more prominent motel operations indicated that approximately 68 percent of the motel guests arrive by air and it is believed that many of these visitors would use the proposed service.

In addition to letters from motel and hotel owners supporting their application, applicants introduced the testimony of two public witnesses. One was the manager of the International

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Inn who testified that he receives inquiries daily from patrons concerning a direct sight-seeing service to San Francisco. The other witness was the Executive Secretary of San Mateo County Restaurant and Hotel Association. It was through this witness that a resolution of the Association was received as a late filed exhibit. The resolution declares an existing need for a sight-seeing service originating at points in San Mateo County.

Application No. 49206

On March 15, 1967, Ronan Erickson, Jeannie Erickson and John A. Kazy filed an application requesting a certificate of public convenience and necessity to operate a sight-seeing service between points in northern San Mateo County and San Francisco.

Service would be provided through the use of a 1967 9-passenger Dodge Sportsman. The van would be redesigned for passenger comfort and would include rugs, ventilator and a public address system.

Applicants propose a single, all-day tour commencing at 8:30 a.m. and ending at 5:30 p.m. The proposed fare is \$14. It is the intent of applicants to conduct a small highly personalized tour. As an added feature, customers would be provided with the use of Kodak Instamatic cameras.

As of March 15, 1967, applicants Ronan Erickson and Jeannie Erickson indicated a net worth in the amount of \$26,350. As of December 31, 1966, applicant John A. Kazy indicated a net worth in the amount of \$83,100.

Application No. 49204

By his application filed March 15, 1967, John P. Jenkins requests authority to operate a sight-seeing service between points in San Mateo County and points in San Francisco and Marin Counties.

Applicant Jenkins is the representative of various travel agents and group tour operators. He has operated sight-seeing service for groups pursuant to a Charter-Party Permit No. TCP-178. As of December 31, 1966, he indicated a net worth in the amount of \$44,340.

Service would be provided through the use of a 1964 7-passenger Mercury station wagon and a 1966 7-passenger Rambler station wagon. Additional equipment would be purchased as required.

Applicant proposes four tours daily:

Tour A	San Francisco City Tour	4 hours	9:00 a.m.
	Adult fare \$8.00	Child 11 or under	\$4.00
Tour B	Muir Woods - Sausalito	4 hours	1:30 p.m.
	Adult fare \$8.50	Child 11 or under	\$4.25
Tour C	Evening in San Francisco	3½ hours	6:00 p.m.
	Adult fare \$10.50	Child 11 or under	\$6.75
Tour D	Night Club Party	6 hours	8:00 p.m.
	Adult fare \$18.00	No one under 21 years	

According to applicant Jenkins service on all tours would commence immediately upon certification.

Protest of The Gray Line, Inc.

According to Gray Line, it is presently serving points in San Mateo County through its parent company Greyhound Lines, Inc. (hereinafter referred to as Greyhound). Patrons of hotels and motels in San Mateo County are informed of Gray Line tours by means of brochures. Those who wish to avail themselves of this service may board one of the Greyhound buses, which are operated on a scheduled daily basis from peninsula points to San Francisco. Upon reaching the Greyhound depot in San Francisco, they may transfer to a Gray Line bus which will transport them to the Gray Line depot located at Fourth Street, where they may board one of the tour buses. Return trips may be made in the same fashion with the exception that the tour bus will deposit passengers at the Greyhound depot.

A representative of Greyhound testified that the peninsula portion of Greyhound's operations is being conducted at a loss and any diversion of traffic would further aggravate this condition.

Although Gray Line has an arrangement with hotels and motels located on the peninsula whereby reservations for their tours may be made through the process of deposit receipts and reservation slips, it was unable to provide the Commission with any information as to the amount of traffic that originates from points in San Mateo County. It took the position that any need for a direct service would have been made known in the form of requests and no requests have been received.

A witness introduced through Hi-Way Tours testified that she had used the combined services of Greyhound and Gray Line on March 6, 1967. The Gray Line tour of San Francisco covered a period of approximately three hours. To avail herself of the tour it was necessary to leave the Hyatt House near the San Francisco International Airport at 8:30 a.m. The trip required five transfers, including taxicabs between the Hyatt House and the nearest Greyhound bus stop. Her total transportation cost, excluding the \$4.50 for the tour, was \$5.10. She returned to the Hyatt House at 2:30 p.m. without any allowance for a lunch period, a total elapsed time of 6 hours.

Application No. 49157 The Gray Line, Inc.

The application of Gray Line is conditioned upon the Commission finding that a need exists for a sight-seeing service originating from San Mateo County points. In such event Gray Line contends that pursuant to Section 1032 of the Public Utilities Code, it should be authorized to provide such service rather than the other applicants.

Each day during the tourist season Gray Line offers six scheduled tours of San Francisco, two to Muir Woods, two evening

tours of Chinatown and Fisherman's Wharf and a night club tour. Additional tours are offered to points in the East Bay, the wineries in Sonoma County and to points in the peninsula and Monterey-Carmel areas. During the off-season Gray Line daily offers four scheduled San Francisco tours, a Muir Woods tour, an evening Chinatown-Fisherman's Wharf tour as well as a night club tour.

If its application is granted, Gray Line proposes to provide a pickup and discharge service in San Mateo County so as to coincide with the schedules of its tours. Said service would be provided by Gray Line buses, each one of which would be equipped with two-way radios so that last minute pickup requests could be met. The proposed round-trip fare over and above the tour fare is \$2.00 a person.

Findings

1. At the present time there is no direct sight-seeing service between points in San Mateo County and scenic points within San Francisco and Marin Counties.

2. Gray Line in conjunction with its parent company Greyhound provides an indirect sight-seeing service between said points. Said service necessitates several transfers. The present schedules of Greyhound between the City of San Mateo and its San Francisco depot require a running time of approximately one hour and a little longer during the commute hours.

3. With the exception of Gray Line each of the applications herein considered proposes a direct service from points in San Mateo County.

4. San Mateo County has experienced a tremendous population growth and development in the past ten years. During the period numerous hotels and motels have come into existence along the

Bayshore and El Camino Real. This is particularly true with respect to the area adjacent to the San Francisco International Airport.

5. In addition to a resolution by the San Mateo County Restaurant and Hotel Association declaring a need for a direct sight-seeing service from points in San Mateo County, the Commission is also in receipt of numerous letters from operators of hotels and motels located in San Mateo County endorsing one or another of the proposed sight-seeing services.

6. Public convenience and necessity require sight-seeing service between points in San Mateo County and points in San Francisco and Marin Counties.

7. Each of the applicants possesses the necessary responsibility to conduct the proposed services.

Conclusion

Gray Line is not an existing passenger stage corporation serving the subject territory of these proceedings and is, therefore, not protected by Section 1032 of the Public Utilities Code, a portion of which reads 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."

All of Grayline's operations originate in San Francisco, with the exception of Daly City, which it is authorized to serve, but has not served for several years. Gray Line has indicated no prior interest in San Mateo County. Its present proposal to serve the area can hardly be considered as an extension incidental to its over-all operations. In effect it is a new service quite different from the type of service heretofore provided, in that Gray Line is offering an extensive pickup and delivery service in San Mateo County with a transfer at its San Francisco depot, a service which would be less convenient than the direct services offered by the other applicants.

There is no question here of the other applicants diverting traffic from Gray Line, for they seek to generate new business from sources which Gray Line has not served in the past and now only reluctantly proposes to serve. Nor do the combined services of Gray Line and Greyhound constitute an existing service within the meaning of Section 1032, as claimed by Gray Line. Such services are neither mutually complementary nor attractive to the sight-seeing public. If followed to its illogical conclusion Gray Line could also argue that it is presently operating a sight-seeing service from all points in California, or at least all points served by Greyhound. ✓

There being no existing service one may safely conclude that a need exists and the record supports this conclusion. The Commission, however, is mindful of the fact that a sight-seeing service cannot be viewed in the same sense with respect to need as the service provided by a passenger stage carrier, which is engaged solely in the transportation of passengers between fixed points. Sight-seeing, must of necessity, be considered as a pleasure. Although sight-seeing may be educational as well as entertaining,

it defies the establishment of definite criteria for the purpose of measuring a need for such service.

Two of the applications herein considered propose to serve large groups, while the other two propose to serve small groups on a personalized basis. San Mateo County covers a wide area and contains numerous hotels and motels, far more than any one applicant herein could service. In fairness, the Commission believes that each applicant should be afforded the opportunity of establishing service on a competitive basis. The Commission therefore concludes that the applications should be granted as set forth in the ensuing order.

Because applicants wish to commence service as soon as possible so as to take advantage of the summer tourist travel, this order will be made effective ten days after the effective date hereof rather than the usual twenty days.

Applicants are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. Certificates of public convenience and necessity are hereby granted to (a) Robert J. Ruhland, Maury Swidler, Nathan Swidler and Stephen W. Hackett, doing business as Hi-Way Tours, (b) John P. Jenkins, (c) Ronan Erickson, Jeannie Erickson and John A. Kazy,

doing business as Barbary Coast Tours, and (d) The Gray Line, Inc., authorizing them to operate as passenger stage corporations, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendices A1, A2, A3 and First Revised Page 3 of Appendix A to Decision No. 66165, attached hereto and made a part hereof.

2. In providing service pursuant to the certificates herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file written acceptances of the certificates herein granted. Applicants are placed on notice that, if they accept the certificates of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-B. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-B, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicants shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.


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- (e) Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

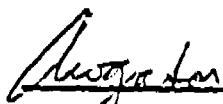
3. The petition filed by The Gray Line, Inc., requesting a proposed report is hereby denied.

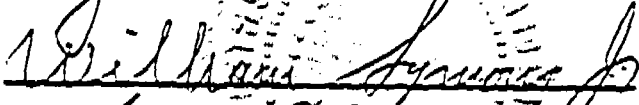
The effective date of this order shall be ten days after the date hereof.

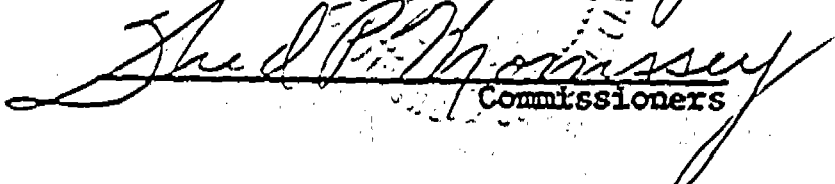
Dated at San Francisco, California, this 25th day of JULY, 1967.



President







Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

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APPENDIX A₁

ROBERT J. RUHLAND, MAURY SWIDLER,
NATHAN SWIDLER AND STEPHEN W. HACKETT
doing business as
HI-WAY TOURS

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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

Robert J. Ruhland, Maury Swidler, Nathan Swidler and Stephen W. Hackett, doing business as Hi-Way Tours, by the certificate of public convenience and necessity granted by the decision noted in the margin are authorized to transport passengers for sight-seeing purposes between points in a service area in San Mateo County, as hereinafter described, on the one hand, and points of interest in the City and County of San Francisco and Marin County named in tours hereinafter described, on the other hand, subject to the following conditions and restrictions:

- (a) All service herein authorized shall be limited to the transportation of round-trip passengers only, originating and terminating at points within the prescribed service area in San Mateo County.
- (b) Service shall be operated on a scheduled basis but applicants will not be obligated to render service for less than six passengers.
- (c) Operations shall be conducted over the most suitable streets and highways subject to local traffic regulations.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49114.

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APPENDIX A₁ ROBERT J. RUHLAND, MAURY SWIDLER, Original Page 2
 NATHAN SWIDLER AND STEPHEN W. HACKETT
 doing business as
 HI-WAY TOURS

SECTION 2. SERVICE AREA

Passengers may be picked up and discharged at any point within the following described area in San Mateo County subject to local traffic regulations:

Commencing at the intersection of the easterly prolongation of Grant Avenue (South San Francisco) with the San Francisco Bay; thence along said prolongation, Grand Avenue, Chestnut Avenue, El Camino Real, Ralston Avenue (Belmont) and the easterly prolongation of Ralston Avenue to the San Francisco Bay, including points westerly of and within one mile of El Camino Real.

SECTION 3. TOUR DESCRIPTIONS

No. 1 SAN FRANCISCO CITY TOUR

Visit points of interest within the City of San Francisco and en route to San Francisco from the point of departure in San Mateo County; such points of interest, including but not limited to Civic Center, Fisherman's Wharf, Golden Gate Bridge, Ocean Beach, Golden Gate Park, Twin Peaks and Candlestick Park.

No. 2 GOLDEN GATE BRIDGE AND MUIR WOODS

Through the City of San Francisco to the Golden Gate Bridge; thence via Sausalito to the foothills of Mt. Tamalpais and Muir Woods.

No. 3 COMBINATION TOUR

This tour combines the points of interest included in Tours Nos. 1 and 2.

No. 4 SAN FRANCISCO NIGHT LIFE TOUR

Include stops at night clubs and places of entertainment and dinner at a restaurant in San Francisco. Also may include visits to locations affording panoramic views of San Francisco at night.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49114.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

John P. Jenkins, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers for sight-seeing purposes between points in a service area in San Mateo County, as hereinafter described, on the one hand, and points of interest in the City and County of San Francisco and Marin County named in tours hereinafter described, on the other hand, subject to the following conditions and restrictions:

- (a) All service herein authorized shall be limited to the transportation of round-trip passengers only, originating and terminating at points within the prescribed service area in San Mateo County.
- (b) Operations shall be conducted over the most suitable streets and highways subject to local traffic regulations.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49204.

SECTION 2. SERVICE AREA

Passengers may be picked up and discharged at any point within the following described area in San Mateo County subject to local traffic regulations:

Commencing at the intersection of the easterly prolongation of Grand Avenue (South San Francisco) with the San Francisco Bay; thence along said prolongation, Grand Avenue, Chestnut Avenue, El Camino Real, Ralston Avenue (Belmont) and the easterly prolongation of Ralston Avenue to the San Francisco Bay, including points westerly of and within one mile of El Camino Real.

SECTION 3. TOUR DESCRIPTIONS

No. 1 SAN FRANCISCO CITY TOUR

Visit all or any points of general or historical interest in the City of San Francisco.

No. 2 MUIR WOODS - SAUSALITO

Through the City of San Francisco across the Golden Gate Bridge with stopovers at Sausalito and Muir Woods.

No. 3 SAN FRANCISCO EVENING DINNER TOUR

Visit Chinatown, Fisherman's Wharf, Telegraph Hill, North Beach and crossing of Bay Bridge to Treasure Island.

No. 4 NIGHT CLUB PARTY TOUR

Visit various San Francisco Night Clubs and Hotels for the purpose of attending floor shows.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49204.

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APPENDIX A3

RONAN ERICKSON, JEANNIE ERICKSON Original Page 1
AND JOHN A. KAZY
doing business as
BARBARY COAST TOURS

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

Ronan Erickson, Jeannie Erickson and John A. Kazy, doing business as Barbary Coast Tours, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers for sight-seeing purposes between points in a service area in San Mateo County, as hereinafter described, on the one hand, and points of interest in the City and County of San Francisco and Marin County named in tours hereinafter described, on the other hand, subject to the following conditions and restrictions:

- (a) All service herein authorized shall be limited to the transportation of round-trip passengers only, originating and terminating at points within the prescribed service area in San Mateo County.
- (b) Service shall be operated on a scheduled basis but applicants will not be obligated to render service for less than four passengers.
- (c) Operations shall be conducted over the most suitable streets and highways subject to local traffic regulations.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49206.

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APPENDIX A₃

RONAN ERICKSON, JEANNIE ERICKSON Original Page 2
AND JOHN A. KAZY
doing business as
BARBARY COAST TOURS

SECTION 2. SERVICE AREA

Passengers may be picked up and discharged at any point within the following described area in San Mateo County subject to local traffic regulations:

Commencing at the intersection of the easterly prolongation of Grand Avenue (South San Francisco) with the San Francisco Bay; thence along said prolongation, Grand Avenue, Chestnut Avenue, El Camino Real, Ralston Avenue (Belmont) and the easterly prolongation of Ralston Avenue to the San Francisco Bay, including points westerly of and within one mile of El Camino Real.

SECTION 3. TOUR DESCRIPTION

Visit points of interest in the City of San Francisco including the Ferry Building, Coit Tower, Fisherman's Wharf, Aquatic Park, Nob Hill, Chinatown, Civic Center, Spreckles Mansion, Palace of Fine Arts, Golden Gate Bridge, Palace of the Legion of Honor, Cliff House, Golden Gate Park, Concert Valley, Twin Peaks and Mission Dolores. Duration of tour will take approximately eight hours.

Issued by California Public Utilities Commission.

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APPENDIX A
(Dec. 66165)

GOLDEN GATE CHARTER CAR
SERVICE, INC.
dba THE GRAY LINE, INC.

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SECTION 1.00 - ROUND-TRIP SIGHT-SEEING TOURS

GENERAL CONDITIONS

1. ROUND-TRIP TRANSPORTATION.

Unless otherwise specifically provided herein, all transportation authorized in this section may be rendered in round-trip service only.

2. POINTS OF RECEIPT AND DISCHARGE.

Transportation authorized to commence and end at the carrier's terminal includes the right to pick up and discharge passengers at hotels, motels, convention halls, common carrier terminals, and other places of public gathering within the city in which such terminal is located and in San Mateo County.

3. ROUTES OF OPERATION.

In all instances where the highway over which operations are authorized to be conducted is not specified, the authorized tours shall be conducted to, from, and within the points, places and areas authorized to be visited over the most practical and appropriate routes.

4. BAGGAGE LIMITATIONS.

Baggage is not authorized to be transported except in connection with tours on which an over-night stop is made.

Issued by California Public Utilities Commission.

Decision No. 72814, Application No. 49157.