

ORIGINAL

Decision No. 75122

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of PALM SPRINGS SIGHTSEEING AND  
CHARTER COMPANY, INC., a  
California corporation, for  
Certificate of Public Conveyance  
and Necessity to operate a  
passenger station sightseeing  
service in and around the City  
of Palm Springs, California;  
and for permit to issue stock.

Application No. 49904  
(Filed December 21, 1967)

Covey and Covey, by Sylvan Covey and  
Thomas J. Scully, for applicant.  
Berol, Loughran & Geernaert by  
Marshall G. Berol, for The Gray  
Line Tours Company; and Bert M.  
Rosenberg, for Evans & Evans  
(Tramway Tours); protestants.  
William R. Kendall and John deBrauwere,  
for the Commission staff.

INTERIM OPINION

This application was heard before Examiner DeWolf on February 20 and 21 and April 23, 1968, at Palm Springs, and on April 24, 1968, at Los Angeles, California, and submitted on the latter date subject to the filing of concurrent briefs which have been filed or waived.

The protestants are The Gray Line Tours Company (Gray Line) and Ray E. Evans and Ruth O. Evans, doing business as Tramway Transportation and Tours (Tramway).

Applicant requests authorization to institute and conduct operations as a passenger stage corporation for the transportation of passengers on five sightseeing tours described in detail in the

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application and generally described as commencing within the City of Palm Springs. Each tour is to proceed as follows:

Tour No. 1 is to proceed over various streets in the vicinity of Palm Springs to the Municipal Airport and return to point of origin.

Tour No. 2 is to proceed on various streets in Palm Springs and vicinity and over Indian Wells Lane to Highway 111 to date farms and return.

Tour No. 3 is to proceed over various streets in Palm Springs and vicinity and to the Aerial Tramway boarding station and to the Municipal Airport and return to Palm Springs.

Tour No. 4 is to proceed over various streets in the City of Palm Springs and over Highway 111 through Cathedral City and Rancho Mirage over Highway 74 to Idylwild and return to Palm Springs through the City of Banning over Highway 60.

Tour No. 5 is to proceed over various streets in the City of Palm Springs and Highway 62 to Joshua Tree National Monument to Salton View Lookout and return to starting point.

Applicant presently does not possess any authority to transport passengers outside of the City of Palm Springs, except a charter party certificate. Applicant's officers own control and operate Palm Springs Transportation System, a California corporation, which operates taxis and a bus line within the City of Palm Springs.

Applicant proposes to operate a 1956 41-passenger Beck bus and two 9-passenger station wagons. Applicant proposes to charge individual fares which range from \$3.50 to \$9.00 per passenger depending on the length of the tour and will operate on an on-call basis which is expected to be twice daily during February, March, and April.

Applicant introduced in evidence Exhibits Nos. 1 through 7 which are attached to the application on file, and Exhibit No. 9 a telegram, and Exhibit No. 10 a letter from Gray Line Tours.

Applicant called five public witnesses who are interested in the tourist business in Palm Springs, and work in the Chamber of Commerce, Convention Bureau, hotels or tourist activities. All of the witnesses testified to increasing tourist activities in Palm Springs and that more of the business houses are staying open throughout the year rather than closing for the summer, and that year round operation is increasing. All of the witnesses testified to inability to get satisfactory transportation for visiting tourists especially when a large bus is required for groups of guests at conventions or the local hotels. The witnesses testified that Gray Line does not advertise or seek to get the business and that they had no knowledge of any Gray Line operations outside of Los Angeles. These witnesses who represent the principal tourist activities in the area testified that they had never received any brochures, programs, or information regarding rates and tours from Gray Line. The concensus of the witnesses is that there is no large bus equipment available which is stationed locally in Palm Springs, and that the tourist business requires a bus or buses be stationed locally throughout the year. Statistics were given that convention group business amounted to 76,000 in 1966, 82,000 in 1967, and is estimated to reach 85,000 in 1968, and 110,000 in 1969. A witness testified that a new convention center is being planned and that the tourist season has been extended from the present January to April period to December through May. The witness testified that conventions and tourist groups are being booked outside the season and are coming in by plane in charter groups at all times of the year. No complaints were expressed as to

service of Tramway which handles small groups except that their equipment is too small to be used by the hotels and conventions.

Protestant, Gray Line, has extensive charter operations, and also claims to be operating under a certificate formerly held by Tanner Tours. Gray Line claims to render tour service on routes similar to those requested by applicant, and is changing from Tanner Tours and substituting Gray Line operations. Whatever operations are conducted by Gray Line in Palm Springs are conducted from the Avis rent-a-car agency with the same office, personnel and phone number. The Gray Line advertising solicits charter business only. The Gray Line claims to have one 9-passenger station wagon in service and a large bus in Palm Springs from January to April and says that it will lease cars from Avis to take care of the overflow.

Gray Line introduced Exhibit No. 15 which purports to show that it transported 1,762 persons on various alleged tours in the Palm Springs area from December, 1967 to April 20, 1968. The Gray Line witness testified that the January business was handled by 28 coaches and three automobiles of company employees to serve a Lincoln-Mercury convention. The other tours were handled by large coaches also, and the evidence shows that protestants' buses were moved only on convention advance reservations. It appears that these movements could have been made by charter operations. The evidence shows that no substantial tours were conducted with station wagons by Gray Line.

The other protestant, Tramway, by its own choice is restricted from using buses larger than 7-passenger exclusive of

driver but counsel advised that Tramway wishes to have this restriction removed and would extend their operations to provide such a service. The restriction in Tramway's certificate is as follows: "All service shall be conducted with vehicles not exceeding 7-passenger capacity, exclusive of driver."

The operating witness for Tramway testified that the issuance of any authority to applicant would dilute the business to such an extent that it would be hard for Tramway to exist throughout the year, and continue operations. Tramway offered to increase its operations to comply with any requirements of the public and the Commission.

Findings of Fact

Upon consideration of the evidence the Commission finds that:

1. Applicant possesses the experience, equipment, and financial resources to institute and maintain the proposed service and in the absence of Section 1032 of the Public Utilities Code public convenience and necessity would require the granting of the application.
2. The evidence shows that applicant and Palm Springs Transportation System, a California corporation, are jointly held corporations and that the latter is engaged in motor bus operations in Palm Springs.
3. Protestant, Gray Line, has not advertised its services and has conducted whatever operations it had in the Palm Springs area in conjunction with and subordinate to the rent-a-car agency, and its charter operations.

4. Protestant, Gray Line, denies the need for improved sightseeing service in Palm Springs, but the evidence shows that it has not provided adequate service and that it has not made any positive effort to develop service by advertising, brochures, telephone listings, solicitation, or otherwise to satisfy the needs of the public in Palm Springs and vicinity. The Commission takes official notice that the question of whether Gray Line may have abandoned some or all of its operating rights in the Palm Springs area is presently being litigated in Application No. 49177 pending before the Commission, and it is not necessary to determine this question herein.

5. Gray Line, by its operation in conjunction with a car rental agency and charter services and by handling only full or mostly full bus loads of passengers without any promotion from its tours, has failed to provide sightseeing service in the Palm Springs area to the satisfaction of the Commission.

6. There exists in Palm Springs a public need for improved sightseeing service for scheduled tours in and around Palm Springs for at least nine months of the year and the attraction of Palm Springs as a convention center and year-round resort is rapidly growing, which will require improved facilities.

7. Protestant, Tramway, applied for a limited sightseeing certificate which was granted per Decision No. 69812 on October 19, 1965, but now states its desire to seek amendment to this certificate for purposes of expanding its sightseeing operations, particularly as to equipment.

Section 1032 of the Public Utilities Code provides, among other things, "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."

The Commission finds that public convenience and necessity require improved sightseeing service in Palm Springs and the existing passenger stage corporations serving Palm Springs should be allowed six months to improve their service. If said sightseeing service is not improved to the satisfaction of the Commission within said period of time, the Commission may approve this application and may take such other action as it deems appropriate in the circumstances.

Conclusions of Law

Based upon the foregoing findings of fact the Commission concludes that a decision in this proceeding should be deferred for not less than six months and that further hearing should be held to determine what changes have been made to improve the sightseeing service in Palm Springs and to determine whether or not such improved service is satisfactory to the Commission, and to determine whether or not applicant has other public utility passenger stage operations within or adjacent to Palm Springs which would require issuance of a certificate by the Commission under the rule set forth in Los Angeles Railway v. Asbury Rapid Transit System, 42 C.R.C. 837.

INTERIM ORDER

IT IS ORDERED that this application be held in abeyance until further order of the Commission.

Dated at San Francisco, California, this 20<sup>th</sup> day of DECEMBER, 1968.

William Bennett  
President

Fred P. Monsey  
Commissioners

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

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.