

ORIGINAL

Decision No. 76267

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of NEWPORT NATIONAL BANK, a national banking association under National Banking Charter 15235, of Newport Beach, for a class "B" certificate to operate as a charter-party carrier of passengers, (File No. TCP-14-B).

Application No. 51118
(Filed May 26, 1969)

Perry Carter, for Newport National Bank, applicant.
John L. Hughes, for Gray Line Tours;
Russell & Schureman, by Carl H. Fritze, for Continental Trailways, Inc., Continental Pacific Lines and American Bus Lines, Inc.;
L. H. Hoffman, for Greyhound Lines West; D. A. Mannino, for M & M Charter Lines, Inc., and California Sightseeing Tours, Inc.; George A. Cordier, for South Coast Transit Corp., protestants.
W. R. Kendall, for the Commission staff.

O P I N I O N

This application was heard before Examiner DeWolf at Santa Ana, California on July 28, 1969, and was submitted on the same date. Copies of the application and the notice of hearing were served in accordance with the Commission's procedural rules. The protestants are Gray Line Tours, Greyhound Lines West, M & M Charter Lines, Inc., California Sightseeing Tours, Inc. and South Coast Transit Corp. Protestants Continental Trailways, Inc., Continental Pacific Lines and American Bus Lines, Inc., withdrew their protest at the hearing.

Applicant requests authorization to institute and conduct operations as a charter-party carrier of passengers and for issuance of a Class "B" Certificate therefor.

Applicant alleges that it is a national banking association under National Banking Charter 15235 doing business as Newport National Bank at Westcliff and Dover, Newport Beach, California, 92663, and proposes to use the same address as its home terminal.

Applicant alleges that it has had experience in the transportation of passengers by motor vehicle over the public highways, and that its bus driver has been a tank truck driver since 1929 and has been driving the London bus for three years with an excellent record. Applicant owns and operates the London double deck bus, which is described as a 1953 AEC Regent 3 model bus with a seating capacity of 47 and has agreed to limit its operations to only one such bus.

Statement of condition of the applicant describes the following branches: Airport Office, Campus at MacArthur; Newport Beach, Bayside Office, Bayside at Jamboree; Newport Beach, College Park Office, Nutwood at Commonwealth; Fullerton, Sunny Hills Office, Harbor at Brea, Fullerton; Superior Office, Superior at Placentia; Newport Beach, University Office, East Chapman at State College Fullerton; and lists assets of \$57,027,563.

Applicant presently does not possess any authority to transport passengers within the state of California except a charter-party permit under TCP 105.

A vice president and cashier for applicant testified that applicant wishes to operate the 1953 model, London type double deck bus for the sole purpose of advertising the banking business of the applicant and that it will not advertise or solicit charters from the general public and will cater mostly to clubs, societies and local civic non-profit organizations as well as the stockholders of the bank and that the bus is not to be operated for profit but only within the discretion of the bank president and will be furnished free or for a price or donation less than the cost of operation and maintenance. The sole authority for operation and use of the bus will be under control of the president of the bank. The witness testified that the bus has been furnished free to the Credit Managers Association. The sole purpose of the operation of the London bus being to benefit the bank by encouraging deposits.

Five passenger carriers appeared and protested the application. One of these withdrew when applicant announced the restrictions on the requested operations.

A witness for M & M Charter Lines introduced Exhibits 1, 2 and 3 in evidence, being copies of protestant's authority under File Nos. TCP 36-A and TCP 31-A. The protestant witness testified that they own and operate two of the same type London buses and have much other equipment available for charter in this area listed on Exhibit 3. The witness testified that its opposition to the application is made because it has the two London buses available for charter and that the company needs

much additional patronage for its two buses and that there is no public convenience and necessity for additional charter bus equipment in the Santa Ana area.

A witness for Western Greyhound Lines introduced Exhibits 4, 5, 6 and 7 and testified to the extensive charter operations it has in this area and to show that it has equipment in this area to handle additional charter requests.

The other protestants also opposed the application on the ground that there is no need for additional services in this area.

The applicant did not call any public witnesses but stated that many are available who would testify because numerous groups have requested the service. Applicant proposes free service in some cases and all others at less than cost or on a non-profit basis solely at the discretion of the president of applicant for the purpose of advertising the banking business. Users of the bus will be selected by him and he expects to recoup only a part of the cost.

Section 5375.1 of the Public Utilities Code in part provides: "The Commission shall not grant a certificate to such an applicant" (an applicant for a Class "A" or Class "B" charter-party carrier of passengers certificate) "unless it can be shown that the existing charter-party carrier of passengers serving the territory is not providing services which are satisfactory to the Commission and adequate for the public."

The issue raised in the proceeding by the protestants which must be resolved by the Commission is whether the existing charter-party carriers of passengers serving the territory involved in the application, as amended at the hearing, are or are not providing services which are satisfactory to the Commission and adequate for the public. The record is barren of any evidence on this issue.

Upon a consideration of the record herein, the Commission finds as follows:

1. Certain protestants herein hold charter certificates which grant authority to originate at any point within the State of California and operate to any point within the State of California.
2. Greyhound and M & M Charter Lines originate numerous charters within the area proposed to be served by applicant.
3. Greyhound and M & M Charter Lines have sufficient equipment available to serve all customers who call upon them and all customers they may seek and obtain in the area proposed to be served by applicant.
4. Greyhound and M & M Charter Lines have enough equipment to handle more charter business than they now handle in the area proposed to be served by applicant.

5. There are numerous carriers holding Class "A" certificates to operate as charter-party carriers of passengers with bases of operations in Southern California which compete with Greyhound and M & M Charter Lines in the intrastate charter business in California.

6. Applicant has not established that public convenience and necessity require the establishment of the proposed service and the issuance of a certificate therefor.

7. Greyhound and M & M Charter Lines conduct a personalized type of solicitation of charter business.

8. Greyhound and M & M Charter Lines have charter agency locations within a 40-air mile radius of Santa Ana or adjacent thereto including terminals at Los Angeles and other points staffed with their own personnel and commission agents.

9. There are more than enough buses to meet the charter bus needs of the public in Orange County, California.

10. The existing charter-party carriers of passengers servicing Orange County and the area within a radius of 40-air miles of Santa Ana are providing services which are satisfactory to the Commission and adequate for the public.

Based upon the foregoing findings, the Commission concludes that it may not grant the certificate requested by the applicant and the application should be denied.

ORDER

IT IS ORDERED that the application herein of Newport National Bank is denied.

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

Dated at San Francisco, California, this 15th day of OCTOBER, 1969.

William Agnew Jr.
President

Richard L. ...

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Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.