

Decision No. 78689

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GREYHOUND LINES, INC., (GREYHOUND
LINES-WEST DIVISION), a corporation,

Complainant,

vs.

TRAVEL-ALL TRANSPORTATION COMPANY, a
Partnership, THOMAS LAWRENCE NOLEN,
FRANK ELMER EADS III, NORMAN SAMUEL
HOSTETTER, MAURICE EMILE BEAUREGARD, JR.,
and MAURICE EMILE BEAUREGARD, SR.

Defendants.

Case No. 9067
(Filed May 20, 1970)

W. L. McCracken, Attorney at Law, for Greyhound
Lines, Inc. (Greyhound Lines-West Division),
complainant.

James Schwartz, Attorney at Law, for Thomas
Lawrence Nolen, Frank Elmer Eads, III, Norman
Samuel Hostetter, Maurice Emile Beauregard, Jr.,
and Maurice Emile Beauregard, Sr., dba Travel-
All Transportation Company, defendants.

James H. Lyons, Attorney at Law, for Community
Enterprises, Inc., intervenor.

John M. Johnson, for the Commission staff.

O P I N I O N

This complaint was filed by Greyhound Lines, Inc., hereinafter called Greyhound, on May 20, 1970. It alleged defendants are providing regular passenger stage service between Oceanside (Camp Pendleton) and Anaheim (Disneyland) without authority from this Commission and prays they be ordered to cease and desist therefrom. Defendants' answer was filed on June 25, 1970, denying such allegation and stated that defendants are operating metered taxicabs out of Camp Pendleton under authority issued by San Diego County. They pray for a dismissal of the complaint. A Petition of Intervention was

filed on August 26, 1970, by Community Enterprises, Inc., of Stanton, California, under Rule 53 of the Commission's Rules of Practice and Procedure. Intervenor is a passenger stage corporation as defined in Section 226 of the Public Utilities Code and is engaged in transporting passengers and baggage between El Toro Marine Base, on the one hand, and Anaheim and Disneyland, on the other hand. Community Enterprises, Inc., requests authority to intervene as a party plaintiff and that defendants be ordered to cease and desist from providing passenger stage service without authority; that defendants be ordered to cease and desist from charging individual fares for passenger stage service without authority; and that defendants charter-party permit be either revoked or suspended due to the continued abuse of the authority granted by the said permit.

Community Enterprises, Inc., was authorized to intervene as a complainant herein, and a public hearing was scheduled and heard on September 1, 1970, in Oceanside, California, before Examiner Fraser. Evidence was presented by the parties, and the matter was submitted on briefs, which were filed as scheduled.

A Marine Corps sergeant from Camp Pendleton, who was also an employee of Greyhound, testified as follows: On Friday, March 27, 1970, he went to the Camp Pendleton bus stop in the evening. A Travel-All limousine was parked in the bus stop zone, and he asked the driver for a ticket to Anaheim. The driver advised he could go with four or more passengers and asked the witness to go inside the barracks and try to encourage others to ride with him. No one from the barracks was interested, so the witness came back outside and waited next to the limousine. After a short wait, five other marines informed the driver they wanted to go to Anaheim. The driver then

transported the six passengers to the Caravan Inn in Anaheim and charged a round-trip fare of \$7.00. He gave each passenger a receipt for the money (Exhibit 4) paid and advised them to be at the Caravan Inn on Sunday night (March 29, 1970) at 8:00 p.m. for the return trip. None of the passengers gave a specific destination, other than Anaheim. The witness was driven to the vicinity of the Caravan Inn by a Greyhound supervisor on Sunday evening, April 12, 1970. He walked up to the Travel-All limousine parked in front of the Caravan Inn and was told, by the driver, that "a load would be going to Camp Pendleton at 9:00 p.m." About 8:00 p.m. a second Travel-All limousine, No. 6, drove up, and the driver transported the witness and another passenger back to Camp Pendleton for the one-way fare of \$4.00, which was also the fare quoted by the first driver, who was scheduled to leave at 9:00 p.m. On Friday, August 7, 1970, the witness walked to the same bus stop he visited on March 27, 1970. A Travel-All limousine was parked in the bus stop. The driver stated that a one-way ticket to Anaheim would cost \$8.00 because he had only three passengers. The driver checked at the barracks without obtaining more passengers. He then drove to Occanside and parked across the street from the Greyhound Depot, where three additional passengers were obtained. Before arriving at the Caravan Inn in Anaheim, three of the passengers paid the \$7.00 round-trip fare, and three, including the witness, paid the \$4.00 one-way fare. None of the passengers asked to be transported to the Caravan Inn, although all of them were going to Anaheim. All of the vehicles he rode in had taximeters, but none of which was operative while he was a passenger.

Greyhound's Director of Traffic for eleven western states

placed Greyhound's certificate (Exhibit 6) in evidence and testified that Greyhound has numerous bus schedules operating between Oceanside and Anaheim and also has bus stations at both locations. He testified that Greyhound does not provide service between Camp Pendleton and Oceanside, although the Oceanside city bus line does. He testified that extra schedules are operated on weekends so no one has to wait very long in Anaheim or Oceanside. A Greyhound exhibit (No. 8) was placed in evidence to show 1,391 buses are operated in California, and 3,274 tickets were sold on the Oceanside-Santa Ana-Anaheim route during June, 1970 (Exhibit 9).

The branch manager for Community Enterprises, Inc., testified that his company provides bus service between Camp Pendleton and Anaheim for groups of 15 or more passengers. The service is operated only on weekends and holidays to accommodate marines during their off duty periods. Three buses are used, and schedules are occasionally provided during the week on special request. He testified that the Community operation also includes San Clemente Stage Lines, which provides service from various points in Camp Pendleton to San Clemente, located twenty miles north of the Camp on the freeway. The witness advised that the San Clemente operation is important to the marines and workers on the base, but it is not a profitable service and is subsidized by the Pendleton-Anaheim schedules.

The witness further testified as follows: He was working at the San Onofre and Horno Taxi Stand in Camp Pendleton on Saturday, July 26, 1969, and from 1:40 p.m. to 2:55 p.m. heard the drivers of four Travel-All limousines asking passing marines if they wanted to go to Anaheim at \$3.00 per passenger. Each vehicle

had the company name on the front doors and a number on the sides and sometimes on the back of the vehicle. One of the drivers stood at the door of the San Onofre snack bar and advised those who were on the premises that he could leave (for Anaheim) if he could get three more passengers. His vehicle already had five passengers when he made this announcement.

Defendants placed Exhibits 11, 12, and 13 in evidence. Exhibit 11 is a "Taxicab Operator's License" (No. 495) issued by the Sheriff of San Diego County on June 30, 1969, to M. E. Beauregard and Thomas Nolen as Travel-All Transportation Company. The date of expiration is June 30, 1970. Exhibit No. 12 is a "Taxicab Operator's License" (No. 543) issued by the Sheriff of San Diego County on July 1, 1970, to M. E. Beauregard at Travel-All Transportation Company. The date of expiration is July 1, 1971. Exhibit 13 is a county document headed "County of San Diego, Certificate to Operate Taxicabs in the Unincorporated Area of the County of San Diego." It is Certificate No. 32, issued on April 7, 1970, to Thomas L. Nolen and Maurice E. Beauregard, dba Travel-All Transportation Company, and authorizes them to operate 14 vehicles in north San Diego County.

Nolen testified as follows for the defendants: He and Maurice Beauregard, Sr., are partners who are the sole owners of the Travel-All Transportation Company. Eads, Hostetter and Beauregard, Jr., are merely associates. The company transports charter groups and provides taxi service in San Diego County, with most of the cab service originating or terminating at Camp Pendleton. His drivers are required to charge the fares imposed by Camp Pendleton directives when operating from the base, which are one and a half

times the meter reading on the longer trips. If a passenger makes a round trip from Camp Pendleton to Anaheim, he is charged double the meter rate, even if he is to make the return trip at a later date. The round-trip fare would be paid when he enters the cab at Camp Pendleton. The vast majority of trips are scheduled on Fridays, Saturdays, and Sundays. There is very little business during the rest of the week. Vehicle trip sheets do not show a specific address or location, but only the place where a passenger disembarked, e.g., Anaheim, Oceanside, Pendleton or other area.

Discussion

A taxi waits in a designated area or cruises the streets until a passenger comes over or flags it down. The passenger tells the driver where he wants to go. The meter is turned on, and the passenger pays the fare noted on the meter when he arrives at his destination. Taxis are regulated by municipal or county ordinances, and drivers do not leave their vehicles to solicit passengers. The first passenger is entitled by tradition and regulation to the exclusive use of the cab until he arrives at his destination. Defendants' operation as portrayed in the evidence herein is not a taxi service. The taximeters are not used. The driver advises all who will listen of his destination, and passengers ride his vehicle only to go to the announced destination. The fare is announced by the driver and collected from each passenger before the vehicle leaves. The taxis to Anaheim all stop at the Caravan Inn,

and taxi passengers are encouraged to pay a round-trip fare and return on the taxi at an announced date and time with the pickup at the place where they left the taxi. Decision No. 72923, dated August 15, 1967, in Application No. 49407, granted defendants herein a charter-party carrier permit, with a notation on the face thereof, "that service in, from, and to the Marine Corps installations is a taxi service and not authorized by this permit." In addition to the charter permit, some of the partners hold authority from the County of San Diego to provide taxicab service in unincorporated areas of San Diego County. All parties agreed that the operation described herein is not a charter-party carrier service. Section 5353 (g) of the Public Utilities Code excludes taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver from the provisions of the charter-party carrier's act. Defendants' charter permit also forbids charter operations out of Camp Pendleton. Defendants argue that the evidence herein shows nothing more than a normal taxi operation. Complainants assert that defendants are providing a passenger stage service between Camp Pendleton and Anaheim and are soliciting passengers and charging individual fares in violation of Section 1031 of the Public Utilities Code. Section 1031 provides in part that:

"No passenger stage corporation shall operate or cause to be operated any passenger stage over any public highway in this State without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation, ..."

The first paragraph of Section 226 of the Public Utilities Code provides as follows:

"226. 'Passenger stage corporation' includes every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this State between fixed termini or over a regular route except those, 98 percent or more of whose operations as measured by total route mileage operated, are exclusively within the limits of a single city or city and county, or whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institution."

Section 1035 provides as follows:

"1035. Whether or not any stage, auto stage, or other motor vehicle is being, or is proposed to be operated as a passenger stage corporation 'between fixed termini or over a regular route' within the meaning of this part is a question of fact, and the finding of the commission thereon is final and is not subject to review. Any act of transporting or attempting to transport any person or persons by stage, auto stage, or other motor vehicle upon a public highway of this State between two or more points not both within the limits of a single city or city and county, where the rate, charge, or fare for such transportation is computed, collected, or demanded on an individual fare basis, shall be presumed to be an act of operating as a passenger stage corporation within the meaning of this part."

Defendants have transported passengers between the termini of Camp Pendleton and Anaheim on a schedule during Friday, Saturday, and Sunday. In Fleetlines, Inc., 52 Cal. P.U.C. 298 at 308, the Commission held that a "'termini' may be a city, town, or locality." The decision further provides that the ultimate test is whether they are "'fixed termini' so far as the carrier is concerned."

Defendants also provide a scheduled service. They transport only between Camp Pendleton and Anaheim, with vehicles leaving and returning on the same days each week. Drivers encourage their passengers to purchase round-trip tickets and to return on the same vehicle, by being picked up at a specific time and place in Anaheim every Sunday evening.

Defendants' drivers solicited at a quoted individual fare and then accepted payment from individual passengers prior to

departure. Defendants argue their charges are completely lawful and are required by Camp Pendleton Order B. O. 5512, 2D, dated 11 October, 1966 (Exhibit 17), which regulates cabs on the post and includes a card titled "Rate Card For Chartered Service", which lists individual and minimum (vehicle) load rates to seven areas, from Camp Pendleton and vicinity. A \$7.00 round-trip fare is listed from certain zones in Camp Pendleton to Disneyland, but there is no \$4.00 fare to Anaheim. Order B. O. 5512, 2D has a set of regulations on Page 5 which provides that drivers must remain in their vehicles at all times and never enter barracks, mess halls, concessions or recreation centers. It further provides that drivers will not solicit passengers in any way, and after obtaining a passenger the vehicle must leave immediately if a cab, or within five minutes if a limousine. A limousine is defined as a vehicle used for the transportation of passengers for a compensation which is fixed according to distance traveled or time elapsed. The order describes the rates on the card as maximum and makes it obvious that the rates are published to advise marines of the maximum fares they should pay to be transported to the points noted. The rates are not published to either supersede or supplement state or county regulations. The rates on the card do not constitute a defense. The \$4.00 rate charged by defendants is not listed on the card, and defendants drivers have violated several of the sections of the Camp Order by leaving their vehicles, soliciting, entering barracks or concessions and refusing to leave the taxi stand until the vehicles have a majority of seats filled. Camp Pendleton Order 5512, 2E (Exhibit 17), is dated 5 June, 1970 and was apparently in effect on August 7, 1970, when the third incident related by the first witness occurred. This order relates to buses and taxicabs. Limousines are not mentioned in the order. Buses are defined as vehicles designed

to carry more than fifteen persons including the driver. Taxicabs are defined as vehicles of a distinctive appearance, designed to carry no more than eight passengers for hire and equipped with a taximeter operated at rates per mile or on a time basis or both, and which are not used over a defined route, but to a destination requested by the passenger or person hiring the vehicle. The order provides on Page 7 (Exhibit 17) that the fare "will be the metered fare authorized by the local county or municipality in which the taxicab is licensed." On long hauls to Disneyland, Los Angeles and equally distant areas, the fare may be one and a half times the meter reading. The witness who rode in defendants' vehicles on three occasions testified that the meter was turned off on all three trips.

Defendants' argument that Section 5353 (g) of the Public Utilities Code exempts their vehicles from regulation must be rejected. The section relates only to the Charter-party Carriers' Act. It does not excuse compliance with the other provisions of the Public Utilities Code.

Intervenor, Community Enterprises, Inc., requested a suspension or revocation of defendants' charter-party carrier permit. The permit will not be suspended or revoked in this proceeding but may be for any future violations.

The provisions of the Camp Pendleton orders relied on by the defendants do not justify the charging of individual fares; providing scheduled service between points with round-trip fares paid in advance; soliciting by drivers or prospective passengers; the apparent policy of running all cabs only to destinations selected by the drivers; and after June of 1970, operating what are classified as taxis without using the taximeters.

Findings

1. Greyhound Lines, West, a complainant herein, is a passenger stage corporation which provides frequent bus schedules between Los Angeles, Oceanside, Anaheim and San Diego.

2. Greyhound Lines, West, provides no service between Oceanside and Camp Pendleton.

3. Community Enterprises, Inc., a complainant herein, provides a scheduled service on weekends and holidays from Camp Pendleton to Anaheim and return, which supports additional bus operations in the outlying areas of Camp Pendleton.

4. On March 27, 1970, at Camp Pendleton, defendants' driver solicited passengers for Anaheim at individual round-trip fares and did not leave until he had six passengers who were transported to Anaheim and advised to return two days later for the return trip.

5. On Sunday, March 29, 1970, at 8:00 p.m. two of defendants' vehicles were present to pick up the round-trip passengers transported to the Caravan Inn in Anaheim. One vehicle left at 8:00 p.m. with two passengers who paid a one-way fare of \$4.00 each. The remaining vehicle was scheduled to leave at 9:00 p.m. with a full load. The vehicles delivered their passengers and picked them up at the Caravan Inn.

6. On Friday, August 7, 1970, one of the defendants' drivers solicited three passengers to Anaheim at a one-way fare of \$8.00, because of having only three passengers. He stopped in Oceanside across from the Greyhound Depot and obtained three more passengers for Anaheim, then drove to the Caravan Inn in Anaheim where three passengers paid a round-trip fare of \$7.00 and three paid the \$4.00 one-way fare.

7. Taximeters were in all vehicles during the transportation described, but none was turned on.

8. Defendants operate a scheduled one-way and round-trip service from Camp Pendleton to the Caravan Inn located in Anaheim.

9. Charges for the service are assessed on an individual fare basis.

10. Defendants do not hold any operating authority from this Commission to operate as a passenger stage corporation.

11. The request to suspend or revoke defendants' charter-party carrier permit should be denied.

Based upon the above findings, the Commission concludes that defendants have operated as a passenger stage corporation in transporting persons on an individual fare basis between the United States Marine Corps installation at Camp Pendleton and Anaheim without first having obtained authority from this Commission so to do and should be ordered to cease and desist from such operations.

O R D E R

IT IS ORDERED that:

1. Defendants Thomas Lawrence Nolen, Frank Elmer Eads, III, Norman Samuel Hostetter, Maurice Emile Beauregard, Jr. and Maurice Emile Beauregard, Sr., as individuals, and a partnership doing business as Travel-All Transportation Company, shall cease and desist from operations as a passenger stage corporation in the transportation of persons on an individual fare basis between Camp Pendleton and Anaheim.

2. The request to suspend or revoke defendants' charter-party permit is denied.

The Secretary of the Commission is hereby directed to cause personal service of this order to be made upon the defendants. The effective date of this order shall be twenty days after the completion of such service on defendants.

Dated at San Francisco, California, this 17th day of MAY, 1971.

[Signature]
Chairman
William [Signature]
[Signature]
Vernon L. Sturgeon
[Signature]
Commissioners