

Decision No. 79369

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of The Gray Line Tours  
Company for authority to provide  
sightseeing service between points  
within the Corporate Limits of the  
Cities of Anaheim, Beverly Hills,  
Buena Park, Glendale, Long Beach,  
Los Angeles, Pasadena and Santa  
Monica and Magic Mountain at Valencia.

Application No. 52303  
(Filed November 16, 1970)

John L. Hughes, for Gray Line Tours Company, applicant.  
W. L. McCracken, Attorney at Law, for Greyhound Lines,  
Inc. (Greyhound Lines-West Division); James H. Lyons,  
Attorney at Law, for Airport Service, Inc., and  
Orange Coast Sightseeing Co.; protestants.  
R. W. Russell, Chief Engineer & General Manager, by K. D.  
Walpert, Department of Public Utilities & Transportation,  
for City of Los Angeles, interested party.  
William H. Well, for the Commission staff.

## O P I N I O N

This is an application by The Gray Line Tours Company (hereinafter referred to as Gray Line) seeking authority to provide sightseeing service from Anaheim, Beverly Hills, Buena Park, Glendale, Long Beach, Los Angeles, Pasadena and Santa Monica to a family entertainment complex known as Magic Mountain.

A duly noticed public hearing was held in this matter before Examiner Jarvis in Los Angeles on February 17, 1971, and the matter was submitted on March 23, 1971.

Magic Mountain is a family entertainment complex containing an amusement park, children's play area, 3000-seat amphitheater and numerous restaurants and snack stands. Magic Mountain is located near Saugus Junction in Los Angeles County. It opened in the spring of 1971.

Gray Line contends that Magic Mountain is the type of attraction which will generate sightseeing tour business; that it presently operates 18 scheduled tours and that if authority were granted for a

tour to Magic Mountain, it would permit Gray Line a fuller, more economic use of its equipment.

Protestant, Greyhound Lines, Inc. (hereinafter referred to as Greyhound), takes the position that Section 1032 of the Public Utilities Code precludes the Commission from granting the requested authority and that, in any event, public convenience and necessity do not require it.

Protestants, Airport Service, Inc., and Orange Coast Sight-seeing Company, take the position that the Los Angeles territory description proposed herein is in excess of that previously granted Gray Line in other operating authority; that the overall question of Gray Line's operating rights was litigated in Applications Nos. 49177, 49980 and 50434 which were consolidated for hearing and are currently under submission; that the Commission should not, in this proceeding, take any action which would affect the determination in the aforesaid consolidated proceedings and that if the requested authority is granted, the Los Angeles territory should be restricted to the area granted Gray Line in its other operating authority.

The material issues presented in this proceeding are:

(1) Does Section 1032 preclude the granting of the authority requested herein? (2) If Section 1032 does not preclude the Commission from granting the requested authority, do public convenience and necessity require that it be granted? (3) If the requested authority is granted, should the definition of the Los Angeles territory be limited to that granted Gray Line in its other operating authority?

No public witnesses were called on behalf of Gray Line. Its only witness was Gray Line's vice president and general manager. He testified with respect to the proposed service. Gray Line proposes to operate one tour each day Magic Mountain is open. Gray Line operates a pickup service where customers for its tours are picked up at various hotels, motels, etc., and taken to its terminal in Los Angeles. At the terminal, the patrons are placed on busses to go on

the tour for which they have purchased tickets. The proposed tour would leave Los Angeles at 9:30 a.m. and depart from Magic Mountain between 4:30 p.m. and 5:00 p.m. Gray Line proposes an adult fare of \$10 per person, which does not include the price of admission to Magic Mountain. The tour busses are air-conditioned, have public address systems and range in seating capacity from 41 to 53 persons.

The Gray Line witness testified that narration would be provided on the ride from Los Angeles to Magic Mountain, which would be primarily about the history of Los Angeles. He indicated that scenic points along the route would be pointed out. However, the only specific enroute scenic point that he could determine was Griffith Park.

On December 14, 1970, after the Gray Line application was filed and prior to the hearing herein, Greyhound filed a request to revise and redescribe its Route No. 13.01 to provide service from Los Angeles and other points to Magic Mountain. Prior to the request, the route went through Saugus Junction, which is eight-tenths of a mile from Magic Mountain. The Commission takes official notice that on May 5, 1971, it granted Greyhound the revised route authority to serve Magic Mountain.

Greyhound's director of traffic testified that if and when the revised route authority was granted, Greyhound proposed to operate each day Magic Mountain was open 10 schedules northbound from Los Angeles which would stop at Magic Mountain and 10 southbound return schedules. Six of the schedules would be stops on through bus service. Four additional schedules would commence from Greyhound's Los Angeles terminal and make pickups at the Biltmore Hotel and the Roosevelt or Hilton Hotels. Magic Mountain would be the final destination and return point of origin of the four additional schedules. Greyhound has proposed a one-way adult fare of \$1.55 and a round trip fare of \$2.80. Greyhound proposes to use lavatory equipped, air-conditioned busses for the service to Magic Mountain.

The seating capacity of the busses ranges from 39 to 47 persons. The busses have public address systems, but no narration enroute is contemplated.

The director of traffic testified that Magic Mountain had made a feasibility study which projected an estimated attendance of 1,500,000 persons in its first year of operation. The study also estimated that 95 percent of these persons would come by private automobile. He indicated that Greyhound had the ability to handle all of the customers who desired to use its service to Magic Mountain from the areas for which authority is sought in the application.

An assistant manager of the Southern California Rapid Transit District was called as a witness by Greyhound. He testified that the RTD operates numerous lines which stop near Greyhound's Los Angeles terminal. None of the other protestants called any witnesses.

As indicated, Greyhound contends that the Commission is precluded by Section 1032 from granting the authority requested herein. Gray Line argues that Section 1032 is inapplicable because it seeks sightseeing authority whereas Greyhound only provides transportation of passengers without narration.

Section 1032 in part provides that:

"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."

It has been held that the "existing passenger stage" provision of Section 1032 is not applicable to a carrier giving a different type of service. (Fialer's Incorporated, 38 C.R.C. 880, 882; Bay Rapid Transit, 56 Cal. P.U.C. 353, 360; see also Tanner Motor Livery, 32 C.R.C. 682, 687-88.)

This record presents a close question of fact as to whether Gray Line's proposed operations to Magic Mountain, while denoted sightseeing, are sufficiently similar to those of Greyhound to come within the ambit of Section 1032. However, it is not necessary to resolve this question of fact or the Section 1032 question presented herein because of our findings on the second material issue presented; that of public convenience and necessity.

Assuming, for the purpose of discussion only, that Section 1032 does not prevent a grant of operating authority for the service proposed by Gray Line, such authority should not be granted at this time for the reasons which follow.

The service proposed by Gray Line and Greyhound contemplates using substantially similar air-conditioned busses, although the Greyhound busses will have lavatories. Gray Line proposes to operate one round trip schedule every day Magic Mountain is open, provided a minimum of 10 tickets are sold for each trip. Greyhound proposes to operate 10 northbound and 10 southbound schedules each day Magic Mountain is open regardless of the number of passengers. Gray Line will provide narration enroute about the history of Los Angeles and commentary about Griffith Park when the bus passes by. Greyhound will provide no narration.

It has previously been noted that Magic Mountain anticipates that 95 percent of its patrons will come by private car. Some persons coming by public transportation will be transported by charter-party carriers. Many patrons using public transportation will come from areas not here under consideration. Witnesses for Gray Line and Greyhound testified that if both were granted authority to serve Magic Mountain, each would, to some degree, dilute the others' traffic. If neither can serve profitably, the public will eventually suffer.

The Commission is of the opinion and finds that the service proposed by Greyhound ought to be favored in pioneering operations from the areas here under consideration to Magic Mountain. As indicated, both Gray Line and Greyhound would utilize substantially similar air-conditioned busses. Gray Line proposes one tour per day with a minimum of 10 persons. Greyhound will operate 10 schedules in each direction regardless of the number of passengers. Gray Line proposes an adult round trip fare of \$10, which would not include the cost of admission. Greyhound's round trip fare is \$2.80. For the difference in fare, Gray Line would provide a greater pickup service and narration enroute. However, the Greyhound service at the lower fare will be of benefit to more persons and make transportation to Magic Mountain available to a larger number of people than would that proposed by Gray Line. Greyhound should be permitted to pioneer its service without any dilution of traffic which would occur if this application is granted. The application should be denied without prejudice. The Commission can reexamine the situation in the future if Gray Line can establish, in an appropriate proceeding, that there is a need for a luxury sightseeing service from the areas here involved to Magic Mountain, and that the granting of such authority will not have an adverse effect on the carriers providing basic transportation thereto.

Because of the determination heretofore made on the issue of public convenience and necessity, it is not necessary to determine the issues raised by protestants Airport Service, Inc., and Orange Coast Sightseeing Company with respect to the description of the proposed Los Angeles territory. No other points require consideration. The Commission makes the following findings and conclusion.

Findings of Fact

1. Magic Mountain is a family entertainment complex containing an amusement park, children's play area, 3000-seat amphitheater and numerous restaurants and snack stands. Magic Mountain is located near Saugus Junction in Los Angeles County. It opened in the spring of 1971.

2. Gray Line proposes herein service to Magic Mountain from Anaheim, Beverly Hills, Buena Park, Glendale, Long Beach, Los Angeles, Pasadena and Santa Monica. It proposes to operate one round trip schedule each day Magic Mountain is open, which would leave its Los Angeles terminal at 9:30 a.m. and depart from Magic Mountain between 4:30 p.m. and 5:00 p.m. Gray Line would reserve the right to cancel a trip if 10 tickets were not sold therefor. Pickup and return service would be provided from the Los Angeles terminal to the aforesaid cities. Gray Line would use air-conditioned busses, having public address systems, with seating capacities ranging from 41 to 53 persons. Narration of the history of Los Angeles would be provided enroute. Commentary would be included about Griffith Park which would be passed along the way. The adult round trip fare would be \$10, which would not include the price of admission to Magic Mountain.

3. Gray Line has the ability, including financial ability, to conduct the proposed service.

4. On December 14, 1970, Greyhound filed with the Commission a request to revise and redescribe its Route No. 13.01 to provide service from Los Angeles and other points to Magic Mountain. Prior to the request, the route went through Saugus Junction, which is eight-tenths of a mile from Magic Mountain. The Commission takes official notice that on May 5, 1971, it granted Greyhound the revised route authority to serve Magic Mountain.

5. Greyhound will operate each day Magic Mountain is open 10 northbound schedules from Los Angeles and 10 southbound return schedules. Six of the schedules would be stops on through bus service. Four additional schedules would commence from Greyhound's Los Angeles terminal and make pickups at the Biltmore Hotel and the Roosevelt or Hilton Hotels. Magic Mountain would be the final

destination and return point of origin of the four additional schedules. The schedules would operate regardless of the number of passengers. Greyhound would use air-conditioned busses having lavatories and public address systems with seating capacities ranging from 39 to 47 persons. No narration would be provided. The one-way adult fare would be \$1.55, and the round trip fare would be \$2.80.

6. The Southern California Rapid Transit District operates numerous lines which stop near Greyhound's Los Angeles terminal.

7. It is estimated that 95 percent of the persons going to Magic Mountain will travel by private automobile. The remaining 5 percent will use public transportation. Some will use charter-party carriers. Many persons will come from areas not here under consideration.

8. If the authority requested by Gray Line herein were granted, it would generate additional business for Gray Line.

9. If the authority requested by Gray Line herein were granted, it would dilute the traffic of Greyhound to Magic Mountain.

10. The service proposed by Greyhound is of benefit to more persons and will make transportation available to Magic Mountain for a larger number of people than that proposed by Gray Line.

11. The Commission should not permit the dilution of Greyhound's traffic during the period it is pioneering service to Magic Mountain.

12. Public convenience and necessity do not require that the application be granted.

Conclusion of Law

The application should be denied without prejudice.



O R D E R

IT IS ORDERED that Application No. 52303 is hereby denied without prejudice.

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

Dated at San Francisco, California, this 23rd day of NOVEMBER, 1971.

Chairman  
William J. Simon, Jr.  
Norman L. Sturgeon  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.