

ORIGINAL

Decision No. 79580

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WILLIAM H. FICHTER and INEZ R. FICHTER, a partnership, dba VALLEY CHARTER (Bus) SERVICE, for a Class "B" certificate to operate as a charter-party carrier of passengers, Alameda County. File No. TCP-22-B.

Application No. 52818
(Filed August 13, 1971)

William H. Fichter, for himself, applicant.
John P. Crvarich, Attorney at Law, for William H. Fichter and Inez R. Fichter, applicants.
C. J. Kearney, for American Bus Lines, Inc., Continental Trailways, Inc., and Continental Pacific Lines; M. G. Gragg, Director of Traffic, for Greyhound Lines, Inc., Greyhound Lines, West Division; B. L. Smith, for Smith's Charter Bus Service; and Warren K. Miller, for Eastshore Lines; protestants.
Oscar Stark, for Castro Valley Chamber of Commerce; and Milton Jacobs, for A.A.R.P. and Sons In Retirement; interested parties.

O P I N I O N

Applicants William H. Fichter and Inez R. Fichter have applied for authority to pick up charters within a radius of 40 air-miles from Castro Valley (Section 5371.2, Public Utilities Code) and to transport the charters to any points in this state, in or outside of their pickup area of 40 miles (Section 5383, Public Utilities Code). Applicants have never held operating authority from this Commission, although they have been providing free charter service to church groups, scouts, senior citizens and others, for several years.

A public hearing was held on October 15, 1971, in San Francisco before Examiner Fraser. Greyhound Lines, West, Smith's Charter Bus Service, Eastshore Lines, American Bus Lines, Inc., Continental Trailways, Inc., and Continental Pacific Lines all protested the application.

Fichter testified as follows: He has been a resident of Castro Valley for 20 years and is the owner-operator of the Chapel of the Valley Mortuary, the Valley Ambulance Service and the Valley Air Ambulance Service; his bus experience consists of 4-1/2 years of providing a free charter service in a 1947 GMC bus which seats 47 passengers; the bus was privately licensed when used for transportation and was driven by one of his ambulance drivers; his bus transported Boy Scouts, Girl Scouts, Rotary Clubs, church groups, Pop Warner football teams, senior citizens and others, as a part of his public relations program; the bus was fully insured and certified as safe by the California Highway Patrol; he now owns a second bus, which is a 1967 model; both vehicles now have commercial license plates. Applicants filed this application because it has become too expensive to continue providing free service, although applicants are sure they will be able to charge less for their services than other large operators located a considerable distance from Castro Valley. Applicants placed in evidence a profit and loss statement for the mortuary and each of the ambulance services (Exhibit 1). Applicant testified that the bus is not listed as a separate operation on the profit and loss statement. He estimated that it costs 48-1/2 cents a mile to operate the diesel bus and 54-1/2 cents a mile for the 1967 bus; he pays his drivers \$4.50 an hour, with a four-hour guarantee on every charter.

Five witnesses testified for applicants. A minister testified he has been a resident of Castro Valley for three years and occasionally schedules funerals at applicants' mortuary. He further testified that applicants have provided free bus service on outings for his parish youth group, on one occasion all the way to Santa Cruz. He advised he will use applicants' service if the application is granted. A husband and wife testified they are active in various organizations and have used applicants' free charter

service. Both testified that regular charter service is too costly for the groups they represent. Two businessmen testified that a good local operator is needed in Castro Valley, because the only charter operators available now usually bring equipment in from other areas, thereby increasing the cost of the charter.

All of the protestants presented testimony and Greyhound Lines, West, placed several documents in evidence. The manager of Continental Bus Lines testified that the three companies he represents have charter authority to serve the entire State of California and 65 buses available for charter in the Bay Area. He noted that the charter business is highly competitive and the larger carriers are required to keep a large number of buses and a number of drivers constantly on call to handle anticipated business which frequently does not materialize due to competition. The Greyhound Director of Traffic placed exhibits in evidence to show 1,895 buses are in service in the eleven western states served by Greyhound Lines, West. He testified that Greyhound advertises extensively, circulates brochures and continually solicits charter business. The owner of Smith's Charter Bus Service testified that his business operates out of Fremont, but 25 percent of his revenue is from charters out of Castro Valley; he has 16 buses available and could handle a lot more business. Eastshore Lines has had four or five charters out of Castro Valley during the past year. Its president testified there are 135 Class "A" charter operators in California who are authorized to operate statewide; many of these are included in the 35 operators serving the Bay Area and the 9 who are listed in the Castro Valley telephone book. He noted that A.C. Transit is another serious competitor on charters in the East Bay Area. Protestants further argued that the free bus service contributed by applicants was a service provided for compensation under the provisions of Section 5360 of the Public Utilities Code.

There are sufficient charter carriers available to satisfy the public need in the East Bay. Most seem to have equipment they have to maintain at considerable expense but cannot use, due to a lack of business. It would impose an unnecessary hardship on the entire industry to permit small operators to start in each town and rural district on the nebulous theory that better and cheaper service will be provided for local customers.

Findings and Conclusions

1. Applicants have applied herein for a Class "B" charter-party certificate.

2. Applicants have failed to show that public convenience and necessity require an additional certificated charter-party carrier in the area they have applied to serve.

3. There has been no showing that the existing charter-party carriers of passengers serving the territory are not providing service satisfactory to the Commission and adequate for the public.

We therefore conclude that the application should be denied.

O R D E R

IT IS HEREBY ORDERED that Application No. 52818 is denied.

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

Dated at San Francisco, California, this 11th day of JANUARY, 1972.

[Handwritten Signature]

Chairman

[Handwritten Signature]

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Commissioners