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Decision No. 81482

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DWIGHT I. SPURGEON,)
an individual dba B AND H TRANS-)
PORTATION CO., for a Class "B")
certificate to operate as a)
charter-party carrier of)
passengers, Ft. Bragg.)

Application No. 53543
(Filed August 23, 1972)

Dwight I. Spurgeon, for himself, applicant.
Stephen B. Ringwood, Attorney at Law, for
Greyhound Lines-West, protestant.
James W. Myers, for Fort Bragg-Mendocino
Coast Chamber of Commerce, and Don Kasso,
for himself, interested parties.

O P I N I O N

Applicant has applied for a Class B certificate to operate as a charter-party carrier of passengers. A protest was filed by Greyhound Lines-West, and a public hearing was scheduled and held in Fort Bragg, on December 19, 1972, before Examiner Fraser.

Applicant is the Greyhound agent in Fort Bragg. He is employed six hours daily from Monday through Saturday and two hours on Sunday. He is also the legal owner of a 1954 Flexible 29-passenger bus and a 1969 Ford 11-passenger van. He dispatches and drives these vehicles as a separate business under the fictitious name of B and H Transportation Co. The vehicles are used to provide an extra service for passengers of a scenic railroad which transports passengers to Willits and back to Fort Bragg. One of applicant's buses meets the train in Willits, if there are passengers who have asked for immediate transportation to return to Fort Bragg. The other passengers wait for the train to return later in the day.

Applicant operates his buses from June 1st to November 1st when the trains operate. The rest of the year his vehicles are available for charter.

Applicant testified that the Fort Bragg area has no local charter service. Greyhound Lines will provide charter buses, but a charge is made for bringing the buses from either Ukiah or Santa Rosa which is added to the regular charter rate. This additional charge increases the cost to such an extent that an entire bus must be chartered in order to divide the extra cost among a maximum number of riders. Charters to the Bay Area are therefore not scheduled for less than individual busloads. Applicant testified that he can provide a good service for considerably less than Greyhound. He stated there is a need to transport tourists primarily on short charters to scenic points in the vicinity of Fort Bragg. There is a further need for a local operator to provide charters to distant points in the Bay Area. Residents require the latter service. He stated he is applying for an operating radius of 300 miles, which will include most of the Bay Area. He proposes to charge \$35.00 for four hours on the bus and \$8.50 for each additional hour. Greyhound Lines charges a minimum of \$78.00 for four hours and does not schedule local charters to nearby points out of Fort Bragg. He testified he has never dispatched charters to the Bay Area but is hopeful of a 15 percent profit margin, even when another driver is hired to make the trip.

Representatives of the Fort Bragg-Mendocino Coast Chamber of Commerce made statements of position in support of the application. It was noted that tourism is the number two industry in Fort Bragg.

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They estimated that more than 120,000 people visit Fort Bragg each year and must rely exclusively on transportation of their own. Tourists inquire about sightseeing and groups fly in to visit a local lumber mill. They argued that a local charter service would satisfy these prospective customers in addition to local residents, who find Greyhound's service too expensive.

Protestant's witness testified that 10 percent of Greyhound's gross revenue is derived from charters and 793 buses are allocated to this operation; Greyhound charter service is described on television and radio; expensive brochures are distributed; and all employees are urged to promote this specialized service. The operator of a single bus could not affect protestant's service; but each application must be protested because a proliferation of charter carriers from varied areas in this state, competing on a cut-rate basis, would soon take the greater portion of protestant's business. Advertising and superior equipment, drivers, and service do not impress prospective customers when other service is offered at a lower rate.

Protestant placed seven exhibits in evidence: its charter Class A certificate as Exhibit No. 1; a map as Exhibit No. 2, which shows Greyhound main routes and special operations within a 40-mile radius of Fort Bragg; an equipment list dated December 1, 1972 as Exhibit No. 3; a list of the 1971 and 1972 intrastate charters originating within 40 miles of Fort Bragg as Exhibit No. 4; and two advertising brochures with an account of recent wage increases under collective bargaining as the last three exhibits. Exhibit No. 4 shows 25 charters were scheduled out of the Fort Bragg area (almost all out of Ukiah or Willits) during 1971; further, that 31 buses were used to transport 994 passengers for a revenue of \$8,898.73. The 1972 totals to November 10, 1972 indicate that 58 buses transported 25 charters and 1,844 passengers for a total revenue of \$16,117.08.

In closing, applicant stated he has no intention of competing with protestant. He will operate his bus to transport local residents who cannot afford protestant's service. He testified that he requires an authorization to operate within a 300-mile radius of Fort Bragg. Protestant's counsel emphasized that applicant presented no public witnesses and no testimony regarding his operating experience. He also stated that no evidence was presented to show Greyhound's service is not satisfactory.

The service offered by Greyhound is too expensive for Fort Bragg customers who are required to pay the round-trip expense of moving the buses used between Ukiah or Santa Rosa and Fort Bragg, in addition to the fee for charter mileage or time in transit. There is a public need for a small local operator who can provide inexpensive charter service for senior citizens, boy and girl scouts, school children, Little League, and other groups which have very little money to spend on recreation. The application will be granted.

Findings and Conclusion

1. Applicant has applied herein for a Class B charter-party certificate.
2. Applicant presently provides a limited passenger stage service from June 1 to November 1, returning one-way train passengers from Willits to Fort Bragg.
3. Public convenience and necessity require that the proposed service be authorized.
4. Under the circumstances stated herein 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.
5. Applicant possesses satisfactory fitness and financial responsibility to initiate and conduct the proposed transportation service.

6. Applicant has the experience, equipment, personnel, and resources to maintain the proposed service.

7. The service area from which applicant may operate will be limited to a radius of 16 air miles from his home terminal in Fort Bragg which will permit him to serve the Mendocino County Airport. His charter authority will be limited to 300 miles from Fort Bragg as requested.

The Commission concludes that applicant should be granted a Class B charter-party carrier certificate with a service area as provided in the following order.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Dwight I. Spurgeon, an individual, doing business as B and H Transportation Co., authorizing him to operate as a Class B charter-party carrier of passengers within 300 air miles of Fort Bragg, as defined in Section 5383 of the Public Utilities Code, from a service area including all territory within a radius of 16 air miles from applicant's home terminal at 222 E. Redwood Avenue, Fort Bragg, California.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations. Failure to do so may result in a cancellation of the operating authority granted by this decision.

Applicant will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and regulations of

the Commission's General Order No. 98-Series
and insurance requirements of the
Commission's General Order No. 115-Series.

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

Dated at San Francisco, California, this 19th
day of JUNE, 1973.

I dissent:

Ed Dolan: Commissioner

Vernon L. Sturgeon
President

William Synovis

[Signature]

Commissioners

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