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ORIGINAL

Decision No. 83135

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PHILIP MARTIN SHENK,
an individual dba BLUE BARON BUS CO.,
of Berkeley, California, for a
Class "B" certificate to operate as
a charter-party carrier of passengers.
(File TCP-33-B)

Application No. 54608
(Filed January 28, 1974)

Philip M. Shenk, for Blue Baron Bus Co., applicant.
Warren K. Miller, for Eastshore Lines; Anton Guiton,
for Guiton Charter Service; Alex J. Gaeta, for
Peerless Stages, Inc.; and Richard M. Hannon,
Attorney at Law, for Greyhound Lines, Inc.;
protestants.

O P I N I O N

Applicant has applied to provide service as a Class B charter carrier with a single 22-passenger bus. Protests were filed by Greyhound Lines - West, (Greyhound) Eastshore Lines, Guiton Charter Service, and Peerless Stages, Inc. A public hearing was scheduled and held in San Francisco on March 29, 1974 before Examiner Fraser.

Applicant testified as follows: He lives in Berkeley and is self-employed in the manufacture and sale of leather goods from his apartment and at various county and local fairs. He purchased a 1963 22-passenger Setra diesel-powered bus in June 1973 to convert to a motor home. His insurance agent suggested that the bus be used to carry passengers for hire. This prompted applicant to check the service available from eight charter operators listed in the phone

book. The estimates on the cost of transporting 20 passengers to Tahoe on Friday evening and returning on Sunday evening, varied from \$375 to \$604.50. The rate per mile varied from 55 to 82 cents, with additional charges for tolls and driver expense. The smallest vehicle available for hire was a 38-passenger bus, regardless of the size of the charter group.

Applicant is applying to transport groups of less than 21 people. Other operators are equipped to handle only 30 or more. He does not anticipate any interference with the business of others, since he will not be operating 30-passenger vehicles.

Four members of the public testified for the applicant. A member of a 21-family "joint venture" testified his group had recently purchased a 1,200 acre parcel of land in northern California. The applicant is one of the purchasers and has used his bus to transport other owner-members to the northern California site. The Sherk bus is short enough to make the turns on the narrow road into the property and is cheap to hire since there are no layover charges for driver wages or expense. Sherk is also willing to transport skis, snowshoes, and mountaineering or camping equipment, which other bus drivers occasionally refuse to take. Their cooperative could not afford to hire full size buses for their week-end trips. Applicant's bus is the answer when cost or service is considered. A representative from the Berkeley Ecology Center testified his organization frequently requires transportation for groups of 10 to 20 people. The service proposed by the applicant would be ideal for Ecology Center members and employees. An attorney testified as the representative of a religious group. He is part of an organization that features Swami Muktananda, who conducts a

weekly retreat in the Santa Cruz mountains, and travels frequently to other points in northern California. The Swami has his own vehicle, but his troop of 9 to 14 assistants are transported by bus. The cost of hiring a conventional-sized bus is prohibitive and it may not be available on short notice. Applicant can provide needed transportation at a cost which is within the travel budget of the Swami's group. A member of a sailing club testified boats are sailed up and down the coast on various weekends and it is necessary to have a bus or private cars meet the boats at their destination. Sometimes another crew is transported to sail the boat home and the first crew returns by bus or private auto. Usually family members would travel by road to meet the boats in port, then return by bus. Applicant has the right size vehicle for his needs and would be far less expensive than conventional size buses.

Applicant testified that his operating cost should be about 75 cents a mile, plus tolls, operating an estimated 25,000 miles a year. He testified he will be doing all the driving for at least the first year and most of the maintenance. He is certain he can break even if he transports two 400-mile charters a month. He stated he will obtain any other drivers needed by training members of the cooperative who have volunteered. One member has already offered to drive without pay as long as he receives his meals, and others have indicated they would charge \$10 or \$15 per 24-hour period. He admitted a single bus operator has special problems: His bus could break down in the middle of a charter and strand his passengers, or he might have requests to charter two or more groups on the same day. He will lease or purchase a second bus to substitute in emergencies, as soon as it becomes economically

feasible. If two groups required transportation on the same day, he would have to refer the second group to another charter operator. He estimated his assets at better than \$11,000 and he will be operating from his apartment to save on overhead expense. He estimated his insurance cost at \$1,200 a year, although protestants indicated the figure was too conservative.

A representative from Greyhound testified as to the importance of charter revenue to Greyhound and the fact that 1,687 buses are available to provide any service requested. It was noted that during the month of July 1973, Greyhound dispatched 246 buses on charters out of the Bay area at a revenue of \$70,382.72. It was emphasized that all Greyhound employees advertise and sell charter service. Charter revenue helps to support the scheduled bus service which is frequently provided at a loss. A representative from Peerless Stages, Inc. testified that his organization operates 41 buses. Seven are used in scheduled service and the rest on charter operations. He stated that the scheduled service operates at a loss and is carried by the charter revenue. The latter must be protected. The owner of Guiton Charter Service testified that he owns 63 buses, from 36 to 47 passenger, which are available seven days a week. A representative of Eastshore Lines testified that his company has 40 buses from 29 to 49 passenger. He emphasized there are at least 27 large charter operators in the Bay area, in addition to buses owned by schools, clubs, and public agencies.

Discussion

The issue here is whether we should encourage people to operate charter buses on an intermittent basis. Applicant has applied to operate one bus as a secondary source of income. His testimony

reveals that he may provide occasional free transportation for members of the cooperative he has joined. None of the established bus operators would be able to compete. Although a single bus will affect no other business, a grant of authority to applicant may prompt many more applications and every owner of a van would become a potential charter bus operator. The argument that carrying charters of 20 or less will not affect conventional charter operators is not valid. It is obvious that a group of 40 can divide into two groups of 20 to take advantage of low rates offered by the owner-driver of a single bus. Under the circumstances the application to provide charter-party service in a small vehicle as a secondary source of income should be denied.

Findings and Conclusions

1. Applicant has applied for a Class B charter-party certificate.
2. The proposal to transport no more than 20 passengers on a small bus for less than rates charged by large conventional operators is not a basis for the grant of a Class B charter-party certificate where applicant has no prior experience in charter operation, would use the bus on a part time basis, and has not shown the existing service to be unsatisfactory or inadequate.
3. A proposal to provide service at lower rates than conventional charter operators does not infer that the latter's service is unsatisfactory.
4. Applicant has failed to show that public convenience and necessity require an additional certificated charter-party carrier in the area he has applied to serve.

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We therefore conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 54608 is denied.

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

Dated at San Francisco, California, this 16th day of JULY, 1974.

Leona L. Stinson

President

William J. Lyons

[Signature]

Commissioners