

Decision No. 85359

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ROBERT O. ERNST dba  
VENTURA LIMOUSINE AND BUS SERVICE,  
for a Class "B" certificate to operate  
as a charter-party carrier of passengers,  
Ventura. (File No. TCP 42-B)

} Application No. 55710  
(Filed May 28, 1975)

Robert O. Ernst, dba Ventura Limousine  
and Bus Service, for himself, applicant.  
Russell and Schureman, by R. Y. Schureman,  
Attorney at Law, for American Buslines,  
Inc., Continental Trailways, Inc., and  
Educational and Recreational Services,  
Inc. (also known as Associated Charter  
Bus Co.); Bill Spinks, for Channel Islands  
Bus Co.; Harry Herbert and W. M. Boucher,  
for Cal Coast Charter, Inc.; Robert W.  
Fawcett, for Holiday Lines; and Richard  
Hannon, for Greyhound Lines, Inc.;  
protestants.

O P I N I O N

This application was heard and submitted on July 31, 1975,  
before Examiner Norman Haley at Los Angeles.

Applicant requests a Class B certificate to operate as a charter-party carrier of passengers (Public Utilities Code, Division 2, Chapter 8).<sup>1/</sup> Passengers would be picked up within 40 air miles of applicant's home terminal in the city of Ventura.<sup>2/</sup>

Applicant currently operates as a passenger stage corporation, providing service between Ventura and various points in Los Angeles, Orange, and Riverside Counties (R. O. Ernst, dba Ventura Limousine and Bus Service, Decision No. 84399 (1975)). He also holds charter-party permit TCP 470, issued pursuant to Sections 5372 and 5384 of the Public Utilities Code. He was denied a Class B certificate to operate as a charter-party carrier of passengers from a proposed home terminal in Los Angeles (R. O. Ernst, dba See the West Charters, Decision No. 83006 (1974)).

Applicant's Presentation

Mr. Ernst testified on his own behalf. He is the sole owner of one bus, a General Motors suburban model SDM 4501. It has an approximate value of \$18,000, and assertedly, it is in excellent condition. He and his wife own two formal limousines with no encumbrances. They have an approximate \$35,000 equity in their home. Applicant's income is approximately \$2,500 a month from bus, limousine, and retirement sources.

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1/ Section 5371.2 of the Public Utilities Code reads, as follows:

"All holders of certificates issued subsequent to 90 days after the effective date of this section shall operate from a service area to be determined by the commission. In no case shall this area encompass more than a radius of 40 air miles from the home terminal. The home terminal shall be designated by the applicant. This certificate shall be classified as a class B certificate. This section shall not apply to certificates issued under the provisions of Section 5371.1."

2/ Applicant operates a bus terminal at the end of Peking Street, west of the Ojai Freeway overpass from Main Street in the city of Ventura.

Applicant characterized the Ventura-Santa Barbara County area as generally suburban or rural, with substantial distances between cities and communities. He said this was in contrast to the Los Angeles metropolitan area where the cities and communities intermesh. The witness cited estimated 1974 population figures from Table 3-4 of the California Statistical Abstract (Exhibit 1), for the counties of Fresno (441,400), Santa Barbara (279,800), Stanislaus (210,600), and Ventura (426,000). He asserted that Santa Barbara and Ventura Counties each have two successful charter party bus operators, whereas the other two counties each have four. He pointed out that Exhibit 1 also shows that for the three years between 1971 and 1974, the population of Ventura County increased by substantially greater percentages than population in the other three counties used in his comparison.

The witness asserted that one of the Ventura County operators does not use highway coaches, leaving one that offers highway-type charter bus service. He said that if the one operator is not satisfactory, a charter bus company from another area must come in. The witness stated that when this happens the outside operator incurs deadhead miles, which he estimated to be as much as \$2 a person per charter. He explained that deadhead costs are passed on to customers. He estimated that there would be a 90-mile round trip deadhead from the middle of the San Fernando Valley, for example, resulting in approximately 16 gallons of wasted fuel per bus. He also stated that a bus, when deadheading on a freeway, occupies a considerable amount of space, which is a major problem in metropolitan areas. It was his contention that under Public Utilities Code Section 5371.1 existing operators do not have enough charter buses in Ventura County to provide satisfactory services to the people.

Protestants' Presentation

Protestants called six witnesses who presented evidence in opposition to the application. They introduced and explained Exhibits 2 through 20, which contain factual data relative to operating authorities, charters operated, equipment available, and terminals. All protestants hold Class A charter-party carrier certificates.<sup>3/</sup>

The area within 40 miles of applicant's terminal in Ventura is served by all protestants. Continental Trailways, Inc.,<sup>4/</sup> provides a limited amount of charter service with equipment stationed at Los Angeles. Associated Charter Bus Co. has equipment available for charter stationed at Van Nuys, Los Angeles County, and at Santa Barbara. Greyhound Lines, Inc. serves the area with equipment stationed at Santa Barbara. Assertedly, Greyhound also stations up to five buses at Oxnard, Ventura County. Cal Coast Charter, Inc. is located at Oxnard and provides charter service from that point. Channel Islands Bus Co. is located in the city of Ventura and has buses available for charter at that location. Holiday Lines has its main office in Covina, Los Angeles County. It opened an office in Oxnard in 1975, with one bus and driver stationed there. If charter business should increase the company is in a position to place additional equipment at its Oxnard facility.

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<sup>3/</sup> Class A charter-party carriers may pick up charter passengers anywhere within the State (Public Utilities Code, Sections 5371.1 and 5383).

<sup>4/</sup> American Buslines, Inc. is a wholly owned subsidiary of Continental Trailways, Inc.

The witnesses for protestants testified that there are sufficient certificated charter-party carriers in the Ventura County area with adequate equipment; that there is substantial competition for charters among the certificated carriers in the area; and that charter revenues are an important part of the overall operating revenues of their companies. They assert that they are ready, willing, and able to provide service from the area sought to be served, and that certification of applicant would divert traffic from them causing their operations to be less economical. They alleged that their equipment was not operating to full capacity and no additional operations should be authorized.

#### Discussion

This proceeding is substantially controlled by Section 5375.1 of the Public Utilities Code which reads in part as follows:

"...The commission shall not grant a certificate to such an applicant unless it can be shown that 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. In no event shall the commission issue more certificates than public convenience and necessity require..."

The record shows that protestants are engaged in performing charter bus service from points in Ventura County and the surrounding counties. Charters performed from the sought area range from relatively few in the case of Continental Trailways to a substantial number for some of the others. There was no testimony from public witnesses in this proceeding, either on behalf of applicant or protestants, and there were no public complaints. Applicant's contention that he would use less fuel on charters than other operators who have no terminal in Ventura County, when weighed with other facts in this case, is not

sufficient to show public convenience and necessity. Applicant's allegation that there are not enough charter buses in the area was not supported in the light of protestants' showing. Under the circumstances we have no alternative but to deny the application.

Findings

1. Applicant has applied for a Class B charter-party carrier certificate with home terminal in the city of Ventura.

2. Applicant possesses satisfactory fitness and financial responsibility to initiate and conduct the proposed charter-party service.

3. Protestants hold Class A charter-party carrier certificates which grant authority to originate at any point within California and operate to any point within California.

4. Applicant did not show that the existing charter-party carriers of passengers serving the territory are not providing service satisfactory to the Commission and adequate for the public.

5. 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.

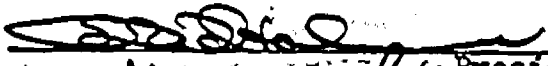
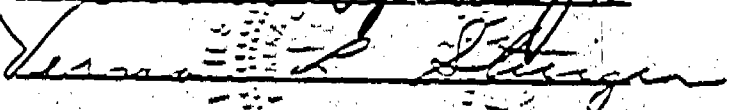

We therefore conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 55710 is denied.

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

Dated at San Francisco, California, this 20<sup>th</sup>  
day of JANUARY, 1976.

  
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President  
  
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Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.