

Decision 88 09 057 SEP 28 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FRANCISCAN LINES, INC.,)
a California corporation, for)
permission to abandon its Danville)
commute run.)

Application 88-02-053
(Filed February 29, 1988)

James A. Drucker, for Franciscan Lines, Inc.,
applicant.
Williams and Robbins, by Judith A. Robbins,
Attorney at Law, for Town of Danville,
protestant.
Elliott L. Bershodsky, for the Transportation
Division.

O P I N I O N

Franciscan Lines, Inc. (Franciscan) is a passenger stage corporation (PSC-890) authorized to provide a regularly scheduled commuter service between Danville and Alamo, on the one hand, and the Transbay Transit Terminal in San Francisco, on the other hand (the Danville commute). By this application, Franciscan seeks authorization to terminate the Danville commute due to declining patronage and substantial financial losses incurred in providing the service. Franciscan also operates as a charter party carrier of passengers (TCP-149A). The charter operation is not involved in this application.

Background

Franciscan was issued a certificate of public convenience and necessity by Decision (D.) 80980 dated January 23, 1973 in Application (A.) 53303 to operate a passenger stage service between Livermore, Pleasanton and Dublin, on the one hand, and Oakland and San Francisco, on the other hand (the Livermore commute). The authority was expanded to include the Danville commute by D-84014

and D.84370 dated January 21 and April 29, 1975, respectively, in A.55390.

Since the expanded certificate was issued, Franciscan has from time to time applied for and obtained authority to increase its commuter fares (D.84786, D.86066, D.89926, D.92209, and D.92961). One of the principal reasons for the fare increases authorized by D.92961, dated April 21, 1981, was to compensate for the decline in patronage on the Livermore commute which occurred when the Bay Area Rapid Transit District (BART) instituted a publicly subsidized shuttle bus service between the Livermore area and BART's Hayward station. We found that with this reduced ridership, a net loss on the Livermore commute would result under then-current fares (D.92961, Finding 7). We also found that the full 70% fare increase sought by Franciscan for the Livermore commute would thwart its efforts to retain or increase ridership, and encourage even more riders to switch patronage to BART's service (id., Finding 12). We instead authorized a somewhat smaller 50% increase, and announced that we expected Franciscan to take immediate and aggressive steps to increase the number of passengers it transports. The decision further stated that if Franciscan could show after three months that it was unable, by aggressive solicitation, to build its ridership to at least a 90% load factor, the Commission would entertain a request from Franciscan to cut back on that service. The decision also encouraged patrons to help promote Franciscan's commute service.

Franciscan subsequently filed A.60731, requesting authority to discontinue the Livermore commute. Based on a showing of declining ridership despite Franciscan's efforts to advertise and maintain adequate, dependable service, we granted that request by D.93807, dated December 1, 1981. This left the Danville commute as Franciscan's only remaining passenger stage operation. As described in the application, the Danville commute currently

consists of one bus to San Francisco each weekday morning and one return bus to Danville each weekday evening.

Hearing

Commuters were informed of the filing of the application by a notice posted in the bus and by fliers passed out by the bus driver. Additionally, Franciscan served copies of the application on involved government agencies, including the Town of Danville.

The Town of Danville and 12 patrons of the commute service sent letters opposing the abandonment request, and the Transportation Division (staff) recommended that the matter be set for hearing. A duly noticed public hearing was held before Administrative Law Judge (ALJ) Wetzell in San Francisco on May 17, 1988. Pursuant to Rule 77.1 of our Rules of Practice and Procedure, Franciscan moved to waive the filing of and comments on a proposed decision. There was no objection, and the motion was granted.

Franciscan's Evidence

Franciscan presented evidence through the testimony of its Operations Manager, James Casey, and its President, James A. Drucker. Casey testified as follows:

1. Franciscan operates a modern fleet of 22 buses (model years 1980 and newer). Most have a capacity of 49 passengers, and the remainder are 43 passenger buses. There are 50 employees. Drivers and mechanics are union employees.
2. Franciscan is primarily a charter bus operator serving foreign tourists and senior citizen groups. In addition to the California authority, it has charter authority from the Interstate Commerce Commission (ICC) which is used mostly for charters to Reno.
3. Franciscan also holds dormant ICC authority to provide regularly scheduled common carrier service to Reno. At one time service was offered seven days per week.

This service was suspended because patronage declined, despite the company's promotional efforts, following the institution of the California lottery and a 1986 bus crash south of Reno involving another bus operator.

4. The Danville commute was initially successful when Franciscan started providing the service, after taking it over from Greyhound. For several years, four buses were operated each day, and these were mostly full. In 1978 BART initiated a shuttle bus service in conjunction with AC Transit to provide connections to its stations on the Concord line, and ridership on the Danville commute began a gradual decline. By 1983 only one bus was operated, although ridership remained between 30 and 40 passengers for a number of years.
5. Ridership began to decline again in 1986, a change that Casey attributes to the drop in gasoline prices which occurred in that year. He presented a count of the number of riders for the first four months of 1988 (Exhibit 1) showing a consistent pattern of decline. The monthly totals for January through April were, in order, 398, 368, 367, and 295. Based on 21 days of operation in April, the daily average was 14 round-trip passengers.
6. The same driver usually operates the morning and afternoon trips. Upon discharging the last commuter in the morning, the driver will either do nothing or operate in charter service until 2:30 p.m., when a chartered shuttle service for Bank of America commences. Whether the driver is working mid-day or not, he is paid for a full twelve hour shift most of the time.
7. In addition to competition from the BART/shuttle bus connection, Casey believes the Danville commute is losing passengers to private automobile drivers who pick up passengers at suburban bus stops to take

advantage of express lanes for multi-occupant vehicles on the Bay Bridge.

8. Franciscan does not anticipate securing operating subsidies for the Danville commute.

On cross-examination by protestant, Casey stated that Franciscan has not taken steps to advertise or otherwise promote ridership in the past three to five years. He believes the service is a "fixture" in the Danville area, already well-known to local residents. He observed that even if such promotion could raise the ridership from the average of 14 experienced in April to 30 or more, the operation would still result in a loss. Casey was also asked whether Franciscan's practice of requiring fares to be paid with the purchase of a 20-ride ticket might be changed to encourage occasional riders. He noted that this is already accommodated by the practice of allowing such riders to buy a "punch" from regular riders, and that there is no time limit on the use of commute ticket books.

James Drucker presented an analysis of revenues and expenses for the Danville commute (Exhibit 2). Based on 1987 average daily revenues of \$109.76 and operating expenses of \$160.41, Franciscan is incurring a loss of \$50.65 per day or \$12,763.80 annually. These expenses do not include dispatching costs, administrative time or any allocation of fixed general expenses. Only 50% of the daily expenses for bus maintenance, depreciation, insurance, cleaning, tires, and oil was allocated, since the bus is also used for charter work. Similarly, although the driver is paid for 12 hours, only 8 hours expense was allocated. Drucker pointed out that Franciscan earns less than 1% of its revenues from its commute operations, making such cost allocations difficult; however, he believes the allocations are reasonable.

Drucker testified that an evaluation of the costs and benefits of regional newspaper advertisements and direct mail promotions leads him to believe that such measures would not be effective for the Danville commute. For example, a direct mailing to each household in Danville and Alamo would cost \$2,800, and would have to be repeated quarterly to be effective. This amounts to more than \$11,000 per year, or \$44 for each day the service is run. He believes that such promotional efforts are not justified for a business grossing \$109 per day. When asked about lower cost methods of promoting the service, such as local newspaper advertisements, community services television, and distribution of leaflets at model homes in new developments, Drucker stated that Franciscan has been discouraged from pursuing such actions by the lack of success it once had in promoting the former Livermore commute in local newspapers when ordered to do so by the Commission.

According to Drucker, Franciscan would need at least 36 riders at current fares in order to justify continuation of the service. At current ridership levels, the daily fare would have to be in the range of \$11 to \$12, compared to the current round-trip fare of \$5.40 (\$53.95 for a 20 ride ticket). He believes a fare of that magnitude would eliminate the remaining ridership. Based on Franciscan's more than 15 years of experience providing commuter service, he is of the opinion that neither fare increases nor further promotion of the service will turn the Danville commute into a viable operation.

Opposition to Abandonment

Mayor Beverly Lane of the Town of Danville and seven riders on the Danville commute offered statements in support of continuation of the service. Mayor Lane noted that substantial population growth has occurred and is continuing to take place in the Danville area, adding to congestion in the Interstate 680 freeway corridor. Transportation facilities in the area are

inadequate to deal with anticipated growth. Caltrans has estimated that Interstate 680 will have to be widened to 18-20 lanes if private automobile use continues to grow unchecked. Services such as Franciscan's Danville commute provide an attractive alternative to use of the private automobile, and sufficient ridership levels could be maintained if the service is properly promoted.

Statements of the commuters are generally summarized as follows:

1. The Danville commute provides an important and valuable service to the community and the need for it is growing.
2. Franciscan provides "good" to "excellent" service with reliable schedules and comfortable buses.
3. BART service is not directly competitive with the Danville commute, nor is it a good substitute, because of the time lost transferring between trains and shuttle buses. Commuting by the BART/shuttle service takes up to 50% longer, or an hour a day. BART is considered a good backup service, especially in the evening when riders have to work late.
4. The Danville commute draws riders not only from Danville but also from nearby areas such as San Ramon, indicating an even greater potential for improving ridership.
5. People in the Danville area are not well-informed about the Franciscan service. Many riders learned about it through accidental circumstances or by word of mouth. With population turnover and growth, many newcomers are unaware of the service. It may once have been a "fixture", but continued promotion is required.
6. Franciscan has not taken advantage of available means to publicize the service, many of which are either low-cost or free.

7. The most recent decline in ridership on the Danville commute occurred after Franciscan announced its intention to request abandonment of the service.

Discussion

There is no dispute that Franciscan is currently losing money on the Danville commute, and no argument that Franciscan should be required to carry the burden of financial losses on an ongoing basis. Nor is there a dispute that it would take a dramatic increase in ridership to turn the commute into an economically viable service. At issue is whether aggressive marketing of the Danville commute would be a cost-effective means of increasing ridership to viable levels, and if so, whether Franciscan should be directed to pursue such a strategy before being authorized to discontinue the service. We find that the potential for a successful turnaround of the declining ridership pattern is so limited that an order to continue the service is not justified.

The most recently available traffic data shows that passenger counts average less than 20 each day. In April, an average of 14 passengers used the service. There is clearly a pattern of declining patronage which has occurred despite evidence and statements that Franciscan provides a reliable, quality service on the Danville commute and that the area being served is experiencing substantial population growth. As a result of this situation, Franciscan has incurred operational losses at an annual rate of \$12,763.80, based on 1987 data, and this situation has worsened in 1988. Whether it is because they perceive other means of transportation to be superior, they are unaware of the service, or too few of them work in San Francisco, residents of Danville and vicinity have not patronized the service in sufficient numbers to justify its continued existence.

It is possible that aggressive promotion of the service, particularly if focused on newcomers to the Danville-Alamo-San

Ramon vicinity, would eventually result in improved ridership levels. However, we cannot ignore the historical pattern of decline which has continued to the point where ridership is far below the level required to cover operational expenses, let alone provide a contribution to Franciscan's fixed administrative expenses. Although some promotional techniques may be low-cost or free, any comprehensive program with a reasonable chance of success is likely to involve considerable expense and require a significant period of time during which losses would continue. The record does not show that such measures would be cost effective. It does show that Franciscan has prior experience upon which to base its judgements of such programs, not only in the case of the Livermore commute, but, more recently, in the case of the ICC-authorized common carrier service to Reno. Based on this experience, it has made a reasonable business decision not to put additional resources into promoting the Danville commute.

We recognize that elimination of this quality bus service will be a loss to the community and to the passengers who will have to use alternative means of transportation, which may be less convenient, more expensive, or both. However, we cannot translate our concern into an order that an investor-owned passenger stage corporation indefinitely continue to subsidize the service with revenues earned from other operations. We note, as pointed out by applicant in a closing statement, that such a policy could have an undesirable secondary effect of discouraging new firms from entering such markets. In the case of the Danville commute, if there is a potential for successful service by some other firm whose operations and facilities are more compatible with the service, and who therefore would be more willing and able to commit the necessary resources, that potential is more likely to be realized if such a successor believes that a decision to enter a market is not irreversible.

In its closing statement, protestant suggested that Franciscan be directed to work with commuters and community representatives to explore options for the service. Following submission of the proceeding, staff received correspondence indicating that the Town of Danville and some of the commuters were pursuing discussions with Franciscan to review options for making the service work better. We commend and encourage such efforts, but will not require Franciscan to pursue such discussions as a pre-condition to discontinuing the service. Based on the record, there is no assurance that this approach will be successful.

To accommodate the possibility, even if it is remote, that such discussions will be fruitful, we will provide for suspension of the operation but also for continuation of the certificate of public convenience and necessity for a period of 120 days after the effective date of this order, after which it will be canceled. We will allow Franciscan to suspend service, pending cancellation of the certificate, through appropriate tariff and timetable filings and on at least 10 days' notice. From a practical standpoint, this will allow Franciscan to discontinue service as requested and at the same time preserve the existence of the certificate so that it can be reactivated or transferred should viable options appear during this period. This procedure may reduce regulatory lag in resuming operations should such a fortuitous circumstance occur. For this purpose we will entertain a petition for modification from Franciscan at least 45 days prior to the scheduled revocation of the operative rights, requesting further extension of the revocation date or removal of the suspension of the rights. Barring such a request by applicant and a further order of the Commission, the rights will be revoked as provided in this order.

Findings of Fact

1. Franciscan seeks authority to abandon service as a passenger stage corporation between Danville and Alamo, on the one hand, and San Francisco, on the other hand.

2. Franciscan operates primarily as a charter party carrier of passengers and earns less than 1% of its revenues from the Danville commute.

3. The number of riders on the Danville commute has declined since it was instituted by Franciscan.

4. One bus is operated daily for the Danville commute.

5. In April, 1988 the average number of passengers was 14.

6. Based on 1987 operations and expenses, Franciscan has been incurring operational losses of \$50.65 per day, or \$12,763.80 annually.

7. The number of riders on the Danville commute would have to more than double to enable Franciscan to recover operational costs and contribute to covering fixed expenses.

8. Franciscan has had experience in attempting to promote commuter services and other common carrier scheduled bus services.

9. Franciscan has made a business decision not to invest additional resources in advertising and promoting the Danville commute.

10. BART provides commuter service to the Danville area with shuttle bus connections to its Concord line.

Conclusions of Law

1. Public convenience and necessity no longer require applicant's service.

2. The application should be granted as provided in the order.

3. Revocation of the operative rights should be deferred for 120 days to allow the parties an opportunity to pursue options for the service which would benefit from continued existence of the certificate.

ORDER

IT IS ORDERED that:

1. After this order becomes effective and on not less than 10 days' notice to the Commission and the public, Franciscan Lines, Inc. may discontinue its passenger stage service by tariff and timetable filings suspending the service.

2. The operative rights authorized by Decision 84370, dated April 29, 1975 in Application 55390 are revoked effective 120 days after the effective date of this order.

3. On the date of revocation tariffs and timetables on file for PSC-890 will be canceled.

This order becomes effective 30 days from today.

Dated SEP 28 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
C. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weisser

Victor Weisser, Executive Director