

Decision 82 62 099 February 17, 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SONOMA AIRPORTER, INC., for a)
Class B charter bus certificate)
from home terminal in Sonoma. }

Application 60659
(Filed June 16, 1981)

Peter Duffy, Attorney at Law, for applicant.
R. D. Rierson, Attorney at Law (Illinois), for
Greyhound Lines, Inc., and William Jensen
and Nick Berkich, for Vaca Valley Bus Lines
Inc., protestants.

O P I N I O N

By this application, Sonoma Airporter, Inc. (SAI) seeks a certificate to operate as a Class B charter-party carrier of passengers from its home terminal located at 18495 Sonoma Highway, which is within approximately one mile of the city limits of Sonoma. Since January 24, 1981, SAI has provided the following passenger services: (1) scheduled, on-call passenger stage service between Sonoma and the San Francisco International Airport (SFO) under PSC 1146, and (2) permitted charter-party service for small groups of passengers under TCP 1542 P.

Public hearing was held in San Francisco before Administrative Law Judge Arthur M. Mooney on October 26 and 27, 1981, and the matter was submitted on the latter date. The application was protested by Greyhound Lines, Inc. (Greyhound) and Vaca Valley Bus Lines, Inc. (Vaca). Greyhound's major concern with the application was that the 40-mile service area sought would encompass the San Francisco-Oakland area. Upon SAI's stipulating at the second day of hearing to the following restrictive amendment of the sought service area for its proposed service, Greyhound withdrew its protest:

Applicant shall operate from a service area within a radius of 20 air miles from its home terminal with the exception that it may under contract with customers located within its service area pick up charter passengers for them at locations within a radius of 40 air miles from its home terminal.

This amendment excluded the San Francisco-Oakland area as an origin area for charters other than those provided under contract for customers located within the 20-mile radius of applicant's home terminal. While Vaca did not object to the service area as amended, it protested the granting of any authority to SAI that would authorize service in equipment with passenger seating configuration above 30.

SAI has been actively in business since January 1981. It operates two 1981 Dodge Maxi Vans, each of which has a passenger seating capacity of 11 for the passenger stage operation and 13 for the permitted charter operation, and a 1977 Plymouth Van with a seating capacity of 8. The equipment is parked at its terminal.

Evidence on behalf of SAI was presented by its president. He has had experience in the transportation field while an officer in the military service and while a school official with the Martinez School District from 1967 to 1974 and as superintendent of the Sonoma Valley Unified School District from 1974 to 1976. He and the other officers of SAI own all of the stock in the company, are local residents, and are active in community activities in the area. During the past five years, the president has worked with an organization based in southern California in organizing European tours, including all transportation arrangements for them.

The president testified that the Sonoma Valley area is approximately 107 square miles and is relatively isolated because of natural barriers, mountains to the west and east and San Pablo Bay to the south. He stated that Santa Rosa is 20 or so miles northwest of Sonoma. He explained that, based on a Bank of America 1974 survey,

the valley is, to a large degree, a retirement area with more than 50% of the population over 50 years of age. Most of these people, he stated, are on relatively fixed retirement incomes and are frugal groups because of inflation. He testified that Sonoma Valley is a small parochial area and that both residents and businessmen prefer dealing with local businesses. In this connection, he pointed out that no large bus charter operator has equipment stationed in the area. According to the evidence, the closest locations from which such equipment can be obtained are Santa Rosa, Vacaville, and Vallejo. The president asserted that the dialing area for the local telephone exchange is limited and requests for information from the large bus operators require a toll call. He also pointed out that problems of deadhead miles, fuel efficiency, and safety arise when the larger equipment is brought into the area from outside. In explaining the safety aspect, he asserted that the highways in the Sonoma Valley are substantially all two lanes, rather narrow, and winding through the mountainous areas and that the operation of large-size buses by drivers not familiar with the area creates a hazard on the roads. He stated that the use of local buses with drivers familiar with the road conditions in the area would minimize the safety hazard and would reduce, if not eliminate, deadhead miles with a resultant increase in energy conservation.

The president testified that his company receives a minimum of one to two requests per week for charter service for groups of 20, 25, or 35 or more people from individuals, travel agents, various businesses, and church and other community organizations. He explained that because of the limitation in SAI's charter permit to vehicles with a passenger capacity of under 15 and its present maximum equipment size of 13 passengers, it is unable to accommodate such requests. The president asserted that there is an urgent need for a local Class B charter service in the area and that SAI has the

experience, ability, and financial resources at its disposal to fulfill this need.

Evidence in support of the application was presented by the executive director of the Sonoma Valley Chamber of Commerce and by a travel consultant of one of the five travel agencies in the Sonoma Valley area. The Chamber of Commerce witness pointed out that, based on the 1980 census, there are 6,054 people in the City of Sonoma and 24,591 people in the unincorporated valley area and that there are approximately 100 groups and clubs, of various sizes, in the Sonoma Valley. Both witnesses stated that they have received many local requests for charter service and that while some requests have been for larger groups, most are for groups of 15 to 30. Each testified that she had received no complaints regarding SAI's service and that it is necessary to use charter carriers from outside the area for larger groups that SAI cannot accommodate under its present authority. They asserted that it is desirable to have a local charter carrier who can accommodate groups of any size and urged that the requested authority be granted.

According to the evidence presented by SAI, the application is also supported by The Sonoma Index Tribune which is a weekly newspaper and the only one in the area, the local board member of the Sonoma County Board of Supervisors, the SFO Airporter, Inc., the Nicholas Turkey Breeding Farms, Inc. which is a multimillion dollar business in the area, and other local businesses and organizations. The president of SAI testified that a number of the hotel and recreation complexes and businesses in the area make arrangements for business meetings and seminars at their locations for groups from the San Francisco-Oakland area, including the San Francisco International Airport. He stated that this is the reason for the request to pick up charter groups within 40 air miles of its home terminal for businesses and organizations located within the 20-mile service area.

In answer to Vaca's recommendation that any Class B authority granted be limited to 30-passenger equipment, the president of SAI testified that such a limitation would severely restrict its proposed operations. The president stated that should the proposed authority, as amended as to origin, be granted, it is SAI's intent to purchase a 26- to 29-passenger bus immediately and a used 1965 or 1966 MC-5, 39-passenger bus within a year. He asserted that while most of the charter requests which SAI cannot handle under its present authority have been for groups of under 30, some have been for groups of 32 or more.

According to Exhibit 4, as of September 30, 1981 SAI had assets of \$46,965.47, liabilities of \$29,641.08, and a shareholder's equity of \$17,324.39. The exhibit shows for the first 9 months of operations, January through September 1981, SAI had revenues of \$46,689.01, expenses of \$65,364.62, and a net loss of \$18,675.61. SAI's president explained that the loss during the start-up period for the business was expected. He asserted that some of the expenses shown on the 9-month statement of operations were annualized, as for example insurance, rent, advertising, printing, and utilities, and that expenses for insurance, equipment license fees, and amortization would be less after the first year. The witness stated that: (1) in the passenger stage operation to the airport, which now has four round trips on weekdays and three on weekends, the number of passengers transported was under 100 in January, approximately 150 in February, and the average now is approximately 500 per month; (2) in the charter permit operations there were two in February and during the current month to date there have been 12; and (3) the business is continuing to increase. He asserted that, based on a survey of local travel agents, businesses, and other organizations, he projects approximately 100 charters for the next year should the sought

authority be granted as requested and that this is an extremely conservative estimate. He stated that most of the anticipated charter service would be for medium- to large-size groups which his company cannot now serve and that there would be at least one group of over 30 per week that would require a vehicle of the MC-5 bus size. He is of the opinion that SAI will have a small loss during the next 12 months and that it will be in a profitable position in 2-1/2 years or less under its present authority and sooner if the sought authority is granted. The witness testified that the company and its shareholders have the necessary financial resources and line of credit from the local branch of the Bank of America to obtain additional equipment and storage facilities for it, as evidenced by the letter from the bank's financial services officer in Exhibit 3.

Evidence on behalf of protestant Vaca was presented by its general manager. According to his testimony, (1) Vaca has been in business for 31 years, and its terminal is located adjacent to the City of Fairfield; (2) it holds Class A Charter-Party Certificate TCP 35-A and is also licensed by the Interstate Commerce Commission to provide charter and special operations services from certain northern California counties, including Sonoma, to the 48 continental United States and Alaska; (3) it operates seven MCI-8 and 10 MCI-9 motor coaches and will obtain two additional MCI-9 coaches in the next several weeks; (4) all have air-suspension ride and are restroom-equipped and air-conditioned, and six have galleys; (5) the terminal has full maintenance facilities with qualified mechanics; and (6) Vaca has 50 employees. The witness stated that Vaca has toll-free numbers in the Sonoma Valley area for anyone wishing to contact it for information or charters. He pointed out that although Vaca does not station any equipment in the Valley, the City of Sonoma is shown as an equipment point in its tariffs which means that it does not assess a deadhead charge for charters originating in the Sonoma Valley.

As shown in Exhibit 7, Vaca handled approximately 340 charters originating in the Sonoma-Napa area during the first seven months of 1981, and while most of these were interstate, at least 40 were in California. Its witness further testified that: (1) in addition to Vaca, several other large charter carriers are also serving the Sonoma Valley; (2) there is adequate service from the existing carriers; (3) an additional large bus charter carrier would dilute the business now available for the existing carriers and would erode Vaca's revenue; and (4) the evidence presented by SAI has not established a need for any additional service by equipment seating of over 30 passengers. He urged that if any authority should be granted to SAI that it be restricted to equipment seating of 30 or less passengers.

Discussion

With the possible exception of the equipment size, the evidence clearly establishes that SAI has the experience, ability, and line of credit to provide the sought Class B charter-party carrier service and that there is a local need for such service in the Sonoma Valley. The only issue, therefore, requiring discussion is whether the not over 30-passenger equipment restriction requested by Vaca should be adopted.

As Vaca's witness pointed out, his company's equipment can carry up to 47 passengers. According to the evidence, (1) substantially all of the charters Vaca handles are for over 30 passengers; (2) it has good, modern equipment; (3) it has toll-free numbers in the Valley area and does not assess deadhead charges for charters picked up there; and (4) it is actively engaged in soliciting and providing charters in this area. The travel agent witness for SAI, on the other hand, testified that on the five or so occasions she has contacted Vaca for charters during the past several years, she has been unable to obtain equipment for weekend charters and has been informed by it that equipment is readily available on weekdays but

not on weekends. In answer to this, Vaca's general manager stated that equipment would be available on weekends if a charter order were placed with sufficient lead time of 60 to 90 days.

As indicated by SAI's evidence, the primary need for charter service in the Sonoma Valley area is for groups in the 18 to 30 category. However, the evidence also clearly establishes that there are charter groups exceeding this number. SAI wants to be in a position to handle such larger groups. As its president pointed out it has no present intent to obtain any equipment with a carrying capacity of greater than 39 passengers. However, it is his position that any equipment restriction would severely limit SAI's future operations as a Class B charter-party carrier and should not be imposed on it.

We are of the opinion that a limitation on vehicle size would curtail SAI's ability to provide and develop a Class B charter service for the area. No such restriction will be imposed.

As we have consistently held, limited competition under regulation in the area of charter-party bus operations is desirable and beneficial for the public interest in that it will tend to promote good service, hold down charges, develop the area, best meet special requirements of segments of the general public, and is an alternative to private auto use. (See In Re R. E. Trahan, dba Get-A-Way Lines, Inc., Decision 91206 dated January 8, 1980 in Application 58990.) Our holding in the matter before us is consistent with this policy. We will grant the application with the area restrictions agreed to by applicant and Greyhound. However, if applicant seeks to remove these restrictions at some later date after experience is gained in providing service under the certificate granted, consideration will be given to such request.

Findings of Fact

1. In its application, as amended at the hearing, SAI proposes to provide service as a Class B charter-party carrier of passengers from a service area within a radius of 20 air miles from its home terminal near the City of Sonoma and, under contract with customers within its service area, to pick up charter groups within a radius of 40 air miles from its home terminal.

2. Since January 1981, SAI has operated as a passenger stage corporation between points in Sonoma Valley and the SFO and as a permitted charter-party carrier of passengers.

3. There were three protestants to the application. One withdrew its protest prior to the hearing. With the amendment of the sought service area, as described in Finding 1, Greyhound withdrew its protest. The remaining protestant is Vaca, and its protest is concerned with a limitation of the seating configuration of equipment to 30 passengers. With such a restriction, Vaca would have no objection to the proposed authority, as amended, as to service area.

4. There are no Class B charter carriers with terminals located in Sonoma Valley. Vaca's terminal is adjacent to Fairfield which is approximately 20 air miles from the City of Sonoma. It holds a Class A charter certificate and interstate authorities and has a large fleet of modern motor coaches with a passenger capacity of up to 47 each. It operated approximately 40 intrastate charters from the Sonoma Valley area for large groups ranging from over 30 to over 40 during the first seven months of 1981 and has also operated about 300 interstate charters for similar large groups from this area during the same period. It does not assess a deadhead charge to customers in the Sonoma Valley and has toll-free numbers for clients calling it from this area.

5. SAI has had numerous requests for charter service for groups of 18 to 25 or 30 from businesses and other organizations in the Sonoma Valley area and has received some local requests for charters for larger groups.

6. Should the sought authority, as amended, be granted, it is SAI's intent to immediately purchase a 26- to 29-passenger intermediate-size bus and to purchase a used MC-5, 39-passenger motor coach within a year.

7. Under SAI's charter permit it is authorized to operate vehicles with under 15-passenger seating capacity and under 7,000 pounds gross weight. There is a public need in the Sonoma Valley area for a locally based charter carrier that is authorized to use larger equipment. Although SAI's evidence regarding charter groups of over 30 was somewhat limited; nevertheless, a representative showing has been made to establish the need for a local Class B charter service with no equipment restrictions.

8. SAI has the ability, experience, and financial resources with its line of credit to perform the charter service described in Finding 1 with equipment having a passenger seating configuration not exceeding 39.

9. Public convenience and necessity require that SAI be authorized to establish the proposed charter service described in Finding 1 with the equipment size restriction stated in Finding 8.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

11. Since there is a demonstrated need for the proposed service, the following order should be effective today.

Conclusion of Law

The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, to be renewed each year, is granted to Sonoma Airporter, Inc. authorizing it to operate as a Class B charter-party carrier of passengers, as defined in PU Code § 5383, from a service area within a radius of 20 air miles from applicant's home terminal at 18495 Sonoma Highway, Sonoma County subject to the following condition:

Applicant shall operate from a service area within a radius of 20 air miles from its home terminal with the exception that it may under contract with customers located within its service area pick up charter passengers for them at locations within a radius of 40 air miles from its home terminal.

2. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives California Highway Patrol clearances and evidence of liability protection in compliance with General Order Series 115. ✓

3. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115, and the California Highway Patrol safety rules.

This order is effective today.

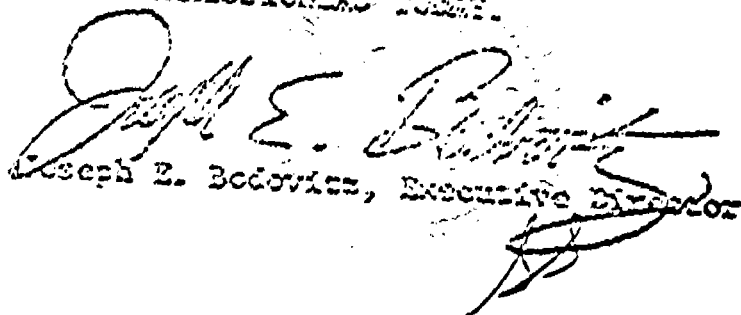
Dated FEB 17 1982, at San Francisco, California.

RICHARD D. GRAVELLE
LEONARD M. CRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

Commissioner JOHN E. BRYSON

Present but not participating.

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


Joseph E. Bodovick, Executive Director