

ORIGINAL

Decision S2 03 075 MAR 16 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of Pacific Western Travel Service,
Inc., doing business as Pacific
Express, for a Class "B" certificate
to operate as a Charter-Party
Carrier of Passengers in Los Angeles.

Application 60841
(Filed August 25, 1981)

Carl W. Greifzu, Attorney at Law, for
Pacific Western Travel Service, Inc.,
applicant.

Howard L. Everidge, Attorney at Law
(Arizona and New Mexico), for
Greyhound Lines, Inc.; James H. Lyons,
Attorney at Law, for Starline
Sightseeing Tours, Inc.; and
Stephen K. Nozaki, Attorney at Law,
for Fast Deer Bus Charter, Inc.;
protestants.

O P I N I O N

Applicant, a California corporation, has applied for authority to operate as a Class B charter-party carrier of passengers within 40 air miles of a terminal located at 1100 Glendon Avenue, Los Angeles, California.

Three protests were received and a public hearing was held on October 30, 1981 in Los Angeles before Administrative Law Judge Edward G. Fraser. Evidence was received from applicant and all three protestants. The matter was submitted on final briefs filed on November 19, 1981.

Applicant sells package tours in the United States to citizens of various oriental and Indonesian nations, including the Philippines. One of its agents travels to the Orient three or

four times a year and works through travel agents in the cities visited. Competition is intense and the cost and service provided must be satisfactory to all who take the tour.

Applicant has hired local buses to date and has found the service to be very unsatisfactory. If a bus is hired to transport people from an air terminal and the flight is late, the bus may have to leave for a second commitment without transporting people on the late flight. Then a second vehicle is required at very short notice to handle the late arrivals. One bus transported a group to Disneyland and the driver insisted that all passengers return within a short period. This bus had a second commitment and was operating on a close time schedule. Applicant also receives requests from people after they get to their hotel. People want to go to a restaurant or take a tour on short notice when they have free time. It is impossible to charter a bus under these circumstances. Usually a minimum notice is required, frequently two or more days. Some operators cannot provide guides who speak the language of those in the tour although this situation is improving. Eighty percent of applicant's current business comes from Taiwan.

Applicant owns a 14-passenger 1980 Dodge, a 22-passenger 1981 Eldorado, and a 38-passenger 1981 bus. 41- and 48-passenger buses will be purchased if this authority is granted. The application shows assets of \$202,341 and liabilities of \$118,038. The money owed is exclusively for the purchase of motor vehicle equipment. Applicant provided no public testimony. Its riders are from overseas tour groups and its agents are foreign travel agents. One of applicant's officers explained why the service was needed by the public.

Fast Deer Bus Charter, Inc. (Fast Deer) is a protestant located in Monterey Park, about a 15-minute drive from downtown

Los Angeles. It has operated as a Class B charter carrier for about one year with four employees. It operates three buses and can provide drivers who speak Mandarin, Cantonese, Taiwanese, and Japanese. The company serves groups from the same area identified with the applicant. It has also handled more than 20 tour groups scheduled by applicant during the past year and is probably the only charter operator in southern California with Chinese-speaking drivers available all the time. The Fast Deer witness testified that business coming from China and the Orient is limited and tours are scheduled only about three months in the year. Applicant has a tour business which is profitable while Fast Deer operates only buses. If applicant receives its authority, Fast Deer alleges it will be out of business.

Starline Sightseeing Tours (Starline) operates a sightseeing and a charter business. Its sightseeing tours are unique as all buses are equipped with a system which permits passengers to dial one of eight available languages and to listen through earphones. About 64 tapes are available, but only 8 can be installed in the recorder. Starline has handled 30 tours for the applicant and there have been no complaints. Starline has 45 buses available and has never terminated a charter or tour due to a second commitment. 95% of Starline's business is scheduled during the daytime. If a day tour extends into the evening or a night tour is to be scheduled, buses would be available for reservation. Starline contends there is no business for an additional service as proposed by applicant.

Greyhound Lines, Inc. (Greyhound) provided a series of exhibits which include its operating authorities; equipment list; timetables; a list of agents, garages, driver locations, and toll-free telephone numbers; a photograph of a late-model bus; and a table which shows Greyhound had 176 charters during February, March,

and April 1981 out of applicant's proposed origin area, resulting in revenue of \$181,341.97. A witness for Greyhound testified that the area is already saturated with charter and regular-route passenger bus operators. He stated that granting more operating authorities simply further dilutes the business available, without benefit to the public. He advised that Greyhound needs all the charter revenue it can get to offset losses suffered on the unprofitable scheduled routes it is required to run every day.

Discussion

Starline's brief alleges that applicant's two small buses (15- and 21-passenger) were used illegally to transport tour groups without charge. It argues that applicant should have applied for a sightseeing certificate since transportation is a part of the tour package and no per-mile or per-hour charge is collected.

The record would not support the grant of a sightseeing certificate as there has been no testimony regarding routes, schedules, or destinations; plus that was not what was applied for. However, the evidence is sufficient to support granting a charter-party certificate. Applicant has hired protestants on a per-hour and per-mile basis and if it is granted a charter-party certificate, its buses can be dispatched and charged for on the same basis.

Applicant's tour groups have been inconvenienced by the unavailability of charter buses on short notice. Protestants and other operators have not always been available when needed. A grant of authority will permit applicant to provide better service for foreign tour groups. The application should be granted.

With the Class B charter-party certificate granted by this decision applicant cannot sell individual fare sightseeing tickets, rather it may only charter an entire bus to a group. (See PU Code § 3551 et seq.) It appears what applicant really wants to do is to ultimately provide individual fare sightseeing service. If that is the case applicant should file an application for a passenger stage certificate to perform sightseeing, specifically listing the points of interests to be served. During the pendency of our further review of Decision 93726 (relating to our jurisdiction over sightseeing-tour service) we may act on such an application ex parte by an interim order.

Findings of Fact

1. There is a substantial need for the charter-party service proposed by applicant.

2. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.

3. Public convenience and necessity require the service proposed by applicant.

4. Protestants provide service in the area applicant also seeks to serve, but have not had buses for hire on occasions when transportation was needed to transport applicant's tour groups; to this extent protestants' service has not been satisfactory to the Commission.

5. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 1100 Glendon Avenue, Los Angeles, California.

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

Conclusion of Law

Public convenience and necessity have been demonstrated and a certificate should be granted. Since there is a public need for the proposed service the following order should be effective today.

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 Pacific Western Travel Service, Inc. authorizing it to operate as a Class B charter-party carrier of passengers, as defined in PU Code § 5383, from a service area with a radius of 40 air miles from applicant's home terminal at 1100 Glendon Avenue, Los Angeles, California; under this certificate no individual fare operations can be conducted.

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.

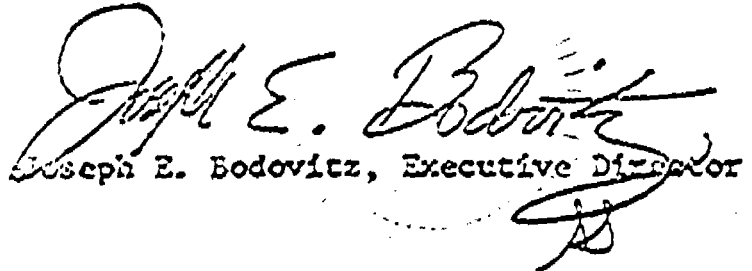
3. In providing service under the certificate, Pacific Western Travel Service, Inc. shall comply with General Orders Series 98 and 115, and the California Highway Patrol safety rules.

This order is effective today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director