

Decision 82 04 029 APR - 6 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of COMMUTER BUS LINES, INC. for)
a Class B charter bus certificate)
from a home terminal in Sacramento.)

Application 60534
(Filed May 13, 1981)

William D. Bourne, for Commuter Bus Lines, Inc.,
applicant.
Howard L. Everidge, Attorney at Law, for
Greyhound Lines, Inc.; and
Brian D. Flynn, Attorney at Law, for
Alexander B. Allen and Amador Stage Lines;
protestants.

O P I N I O N

Applicant Commuter Bus Lines, Inc., a California corporation, requests a certificate authorizing Class B charter-party operations from a home terminal in West Sacramento at 4203 West Capitol Avenue. The application was protested by Greyhound Lines, Inc. (Greyhound), Alexander B. Allen (Allen), dba Allen Transportation Company, and Amador Stage Lines (Amador). A hearing was held on the matter before Administrative Law Judge Pilling on September 28, 1981 at San Francisco. The matter was submitted upon the filing of briefs.

Applicant currently operates as a passenger stage corporation over a variety of routes within the State. It uses 70 buses, most of which are stationed in Southern California, in its overall operations. As pertinent in this opinion, applicant operates five home-to-work hour-long commuter schedules in the morning from points outside of Sacramento, e.g., Auburn and Placerville, into Sacramento which return the passengers home in the late afternoon.

In this operation it uses five intermediate-type air-conditioned buses which applicant described as being less luxurious and less expensive than intercity-type buses yet more comfortable than nonair-conditioned school buses or transit buses. Applicant's buses were former intercity luxury buses to which applicant added additional seats by removing the toilet facilities. Each of these buses holds 45 passengers plus the driver. Applicant also has two other buses located in Sacramento: a backup 58-passenger bus for the commuter operation and a 45-passenger city transit-type bus. After making the morning commuter runs the five buses are parked for the day in Sacramento and the drivers and their passengers go to their principal places of employment. Passengers and drivers return to the buses at the end of the workday and take the late afternoon commuter trip home. Drivers park their buses for the night close to their homes so the buses will be handy for the commuter trip the next morning. The commuter service operates five days a week, except holidays. Applicant intends to use its commuter buses in the proposed charter operation when the buses are idle between commuter runs and on Saturdays, Sundays, and holidays.

Applicant's witness, who was general manager of the Sacramento Regional Transit District (SRTD) for 12 years ending September 1977, and who is co-owner of applicant, stated that applicant's basic charter operation will be directed at obtaining short charters because its buses will be needed for the commuter runs. He stated that the charges for the service would be based on a three-hour minimum rate. He stated that the need for a short-charter service with intermediate-type buses was brought to applicant's attention by the many inquiries it received from persons seeking to charter one of applicant's commuter buses for a short charter and who claimed that chartering an over-the-road bus was

simply too expensive and unnecessarily luxurious for their short trips. They stated they did not want to charter a school bus because it had no air-conditioning and did not want to charter a transit bus because of its uncomfortable seats. The witness stated there are now no intermediate-type buses for charter in the Sacramento area. The only charter operator who did charter such buses was SRTD which ceased chartering buses to all but nonprofit community service agencies in July 1981. The witness introduced a certified copy of a resolution of the Board of Directors of SRTD dated July 13, 1981 which ordered SRTD to cease all charter operations which would go outside its district and to reduce all charter operations within its district to a level which generates not more than a yearly total of \$15,000 with first priority to be given to nonprofit community service agencies within the district. The principal reason which prompted this resolution, as recited by the resolution, was that the increased demand for fixed route services had reduced the spare ratio of available coaches to a level that is less than optimum. The witness stated his company intends to satisfy the need for short charter service by intermediate-type buses created by SRTD's cessation of charter operations.

Applicant's witness also introduced a letter addressed to the Commission dated September 23, 1981 from a travel advisor in Roseville stating that based on his experience there was a need in the Sacramento area for a local charter operator who can furnish intermediate-type buses now that SRTD had discontinued chartering buses.

At present, applicant has no terminal in Sacramento but, if the application is granted, it will acquire one. It will also hire permanent, qualified drivers for its charter operation. While applicant based its case on the alleged need for short charter

service in intermediate-type buses, applicant's witness stated that applicant would put on over-the-road buses for long charter service in the future if the business warranted it. As of June 30, 1981 applicant had a net worth of \$277,000, and for the six months ending on that date had operating revenues of \$689,000, and an operating profit before taxes of \$69,000.

Protestants Allen and Amador, which are jointly owned, operate as Class A charter-party carriers with headquarters in Sacramento and agency stations at Jackson, South Lake Tahoe, and at Reno, Nevada. They also operate as passenger stage corporations between Stockton and Jackson, Jackson and Sacramento, and Jackson and State Line, Nevada. They operate 47 buses, including three nonair-conditioned transit-type buses and three buses which have been specifically modified to handle persons in wheelchairs. Except for the transit buses all their buses seat 47 passengers and have rest-rooms. They employ 40 fulltime drivers and 35 parttime drivers. They recently built a new office complex and shop facility employing two daily shop crews. The witness for Allen and Amador stated that the company's local charter business has recently dropped off dramatically due to the downturn in the economy and the fact that during the last two or three years the number of charter bus companies offering charter service at Sacramento with buses stationed at Sacramento has jumped from three to ten. One of the new bus companies recently transferred 20 buses to its Sacramento operation. The witness testified (Exhibit 9) that during July 1981 his companies together had an average of 26 of their buses per day standing idle in their yard; during August 1981 they had an average of 21 of these buses per day standing idle in their yard; and during September 1981 they had 23 of their buses per day standing idle in their yard. The witness stated that his companies objected to the granting of the application on the basis that authorizing another operator in

Sacramento will take much needed business from his companies and impair their ability to meet their debts, especially the debt on their newly constructed office and terminal. Further, his companies have many idle buses capable of handling any requests for service.

Protestant Greyhound operates as a Class A charter-party carrier of passengers and as a passenger stage corporation. Within the 40-mile origin area sought to be served by applicant Greyhound has company stations located in Sacramento, Vacaville, Woodland, Davis, Fairfield, Rio Vista, Roseville, Auburn, Rancho Cordova, Galt, Lodi, Folsom, Travis AFB, and Wheatland. It has 1,978 inter-city buses licensed in California equipped with air-conditioning and restrooms. Most of these buses have a maximum capacity of 43 passengers. The witness for Greyhound testified that his company has between 30 and 50 buses stationed at Sacramento and that to his knowledge his company has never turned down a request for a charter in the Sacramento area. During February 1981 Greyhound handled 127 charters originating in the Sacramento area which generated a revenue of \$79,000 and during March 1981, handled 136 charters originating in the same area which generated a revenue of \$78,000. During that two-month period it handled three local charters within Sacramento. Greyhound maintains toll-free inward wide area telephone service for use by persons wishing to contact Greyhound to arrange for group travel by charter bus, including persons speaking only the Spanish language and persons with hearing and speech impairment. Greyhound's charter rates are based on a five-hour minimum. The Greyhound witness stated that in his experience all indications point to the public's lack of preference for the type of bus applicant intends to use. The witness stated that his company was protesting the application because there is a sufficient number of charter-party carriers in the Sacramento area

to provide whatever type of service the public might request. In addition, Greyhound's charter revenues help subsidize some of its passenger stage routes in the area which are operated at a loss and the diminution of its charter revenues and dilution of its chartered traffic will seriously jeopardize the existence of those routes.

Discussion

We believe the public should have available to it for short charters the option to charter the intermediate-type of bus applicant operates in its home-to-work commuter operation. This type of bus, once available through SRTD, is not now available for short charters in the Sacramento area, which means the public's choice is restricted to chartering either the over-the-road luxury type of bus or the less comfortable school or transit bus for short charters. The many requests from persons seeking to charter applicant's intermediate-type buses attest to the public need to have such buses available for short charters. No doubt, a considerable number of these requests were made by persons dissatisfied with the rate structure applied by current operators to short charters, namely, a rate based on a minimum of five hours' use of the bus. This is not to say those rates are unreasonable for chartering a luxury over-the-road bus. Applicant's proposed three-hour minimum rate appears to be more fairly and realistically structured for short charters which ordinarily require only a moderately appointed bus. Overall, we believe the proposed service will fill a public need that is presently unfulfilled.

The fact that applicant must use its buses for daily home-to-work commuter runs will limit its participation in the charter-party business to short charters and prevent it from competing with protestants in the more lucrative long charter business. The unsuitability of applicant's buses for long charters

will also tend to restrict its operations to short charters. Hence the proposed operations should have no material financial effect on protestants' major revenue-producing charter operations. Even if applicant's business should grow in the future to the point where it can handle long charters out of the Sacramento area, we see no reason for putting a cap on its business expansion.

Applicant already has a Class B charter-party certificate to conduct operations from a home terminal in Southern California. Granting this application means applicant will have a second home terminal, which is not prohibited by Public Utilities Code § 5371.2. However, it means applicant must maintain two terminals. If it ceases to maintain one of its terminals, the certificate allowing pickup within the particular 40 air mile radius will be revoked. Having more than one home terminal allows a Class B charter-party carrier some flexibility to dispatch and balance operations out of two pickup spheres. This is still far short of the operational flexibility afforded the grandfathered Class A certificate holder who is unrestricted as to where charter groups can be picked up within the State.

Findings of Fact

1. Applicant operates five home-to-work commuter routes in the Sacramento area with intermediate-type buses.
2. Between commuter runs and on Saturdays, Sundays, and holidays the buses stand idle.
3. Applicant requests a charter-party certificate so that it may perform charter operations with its buses.
4. Applicant's commuter operations and the intermediate-type buses it uses will necessarily limit it to performing short charters.
5. Applicant proposes to structure its rates on a three-hour minimum basis.
6. There is currently no intermediate-type buses available in the Sacramento area for chartering.
7. The entity which did charter intermediate-type buses has ceased doing so.
8. Applicant has received numerous requests to charter its commuter buses for short charters.
9. Protestants' rate structures are based on a five-hour minimum rate for the chartering of a luxury over-the-road bus.
10. There is need in the Sacramento area for a short charter service offering intermediate-type buses.
11. Applicant's proposed short charter rates will be more fairly and realistically structured for short charters than those of protestants.

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

13. Applicant has the ability, experience, equipment, and financial resources to perform the proposed intermediate-type bus charter service, which will necessarily limit operations to short charter service, to be authorized in the order which follows.

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

15. Protestants serve the sought territory but are not providing adequate service for the public, and therefore, protestants' services are not satisfactory to the Commission.

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

Conclusions of Law

1. Public convenience and necessity have been demonstrated and a certificate should be granted.

2. Applicant should be authorized to pick up passengers within a radius of 40 air miles from his home terminal.

3. Should circumstances change in the future and applicant wish to have the restriction removed from its certificate, application for this removal must be made to the Commission.

4. Since there is an immediate public need for the service, the 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 Commuter Bus Lines, Inc. authorizing

it to operate as a Class B charter-party carrier of passengers, as defined in Public Utilities Code § 5383, from a service area with a radius of 40 air miles from applicant's home terminal at 4203 West Capitol Avenue, West Sacramento.

2. Applicant's service shall be restricted to the operation of intermediate-type buses.

3. 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.

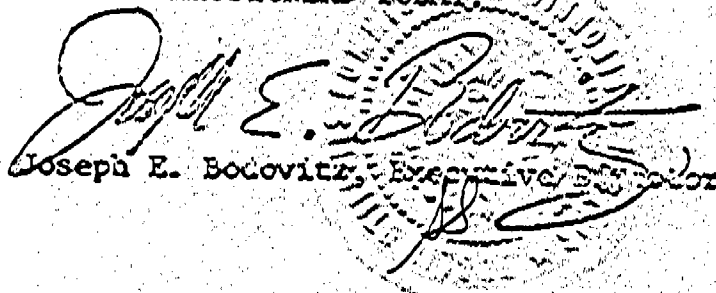
4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115, and the California Highway Patrol safety rules.

This order is effective today.

Dated APR 6 1982, at San Francisco, California.

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

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


Joseph E. Bodovitz, Executive Director