

ORIGINAL

Decision 82 04 091 APR 24 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
MARK I. ROSENTHAL, for a Class "B" } Application 60653
Charter Bus Certificate from Home } (Filed June 15, 1981)
Terminal in Anaheim, California. }

John E. deBrauere, Attorney at Law,

for applicant.

R. D. Rierson, Attorney at Law, for

Greyhound Lines, Inc., protestant.

OPINION

This application was filed by Mark I. Rosenthal, on behalf of himself and his father, Sidney Rosenthal, as partners, on June 15, 1981. As filed, it requested authority for Mark I. Rosenthal dba MARK'S Charters to provide Class B charter-party carrier service from an origin area within 40 air miles of a terminal in Anaheim. At the hearing, however, the terminal location was changed from Anaheim to Garden Grove, and applicant limited his requested origin area to within 33 miles of the new location.

The limitation was placed on the origin area to overcome what otherwise could be a substantive deficiency in the notice given of the filing of this application. The notice was mailed to Class A and B charter-party carriers and showed the home terminal as 2045 South State College, Anaheim, California. The home terminal now proposed is approximately seven miles away at 7331 Garden Grove Boulevard, Garden Grove, California.

Applicant projects annual charter revenues of \$96,000 and operating expenses of \$75,860. Applicant offers 24-hour availability and a family-run operation:

"Our business phone is run out of our residence. My brothers and I do drive, so we're on a 24-hour type of service.

"We offer quotes that can be given 24 hours a day. We offer other special needs such as groups who require other necessities on their coach, possibly special music, any special needs that we try and provide as best we can. We try and offer the more of the personal touch as far as comfort on a ride to any destination.

"You know, we do have flexible, you know, service hours, being 24 hours, so it does enable a lot more business to be done where some people do require an emergency vehicle where they just can't get anybody on the phone in the middle of the night where we are available 24 hours like that."

The vice president of operations of Co-Ordinators, the owner of Tradewind Charters, and a principal of Sierra Skier's Service testified in support of the application. Co-Ordinators prefers to charter buses rather than lease them and has need for the 24-hour service availability applicant offers. Sierra Skier's Service would frequently charter applicant's buses on winter weekends.

A district manager testified for Greyhound and placed a set of exhibits in evidence. Included was a copy of Greyhound's Class A certificate to operate as a charter-party carrier of passengers; a map showing what is included within 40 air miles of applicant's terminal; a copy of Greyhound's authority which covers all scheduled service provided in and out of the greater

CORRECTION

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THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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Decision 82 04 091 (Case No. 82-04-091) APR 21 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MARK I. ROSENTHAL, for a Class "B" Charter-Bus Certificate from Home Terminal in Anaheim, California. Application 60653 (Filed June 15, 1981)

John E. deBrauwere, Attorney at Law,

for applicant.

R. D. Rierson, Attorney at Law, for

Greyhound Lines, Inc., protestant.

OPINION

This application was filed by Mark I. Rosenthal on behalf of himself and his father, Sidney Rosenthal, as partners, on June 15, 1981. As filed, it requested authority for Mark I. Rosenthal dba MARK'S Charters to provide Class B charter-party carrier service from an origin area within 40 air miles of a terminal in Anaheim. At the hearing, however, the terminal location was changed from Anaheim to Garden Grove, and applicant limited his requested origin area to within 33 miles of the new location.

The limitation was placed on the origin area to overcome what otherwise could be a substantive deficiency in the notice given of the filing of this application. The notice was mailed to Class A and B charter-party carriers and showed the home terminal as 2045 South State College, Anaheim, California. The home terminal now proposed is approximately seven miles away at 7331 Garden Grove Boulevard, Garden Grove, California.

Greyhound Lines, Inc. (Greyhound) filed a protest and request for hearing on July 15, 1981 asserting that "the territory being sought by applicant is being adequately served by the existing charter-party carrier(s), and should be denied". L. Bartsch dba Golden West Charter Line, also filed, but later withdrew, a protest and request for hearing. The hearing was scheduled and held on November 6, 1981 in Los Angeles before Administrative Law Judge Main. The parties presented evidence and the matter was submitted upon the December 29, 1981 filing of the transcript.

Applicant Mark I. Rosenthal testified he was a driver for various transportation companies, including Tradewind Charters, for over eight years. Presently he and his father have a bus-leasing business in which they lease the one 41-passenger and two 47-passenger buses they own. They have leased to Tradewind Charters, Co-Ordinators, YMT for charters arranged by Sierra Skier's Service, Robert's Holiday, and to a number of other of the larger carriers in the Los Angeles and Orange counties area. As of June 12, 1981 the total assets of their charter-leasing business were \$121,000 and the total liabilities were \$1,200.

If the Class B operating authority sought is obtained, applicant has commitments for charters from Sierra Skier's Service for ski trips to Mammoth, from Co-Ordinators during the fog season to transport people between airports, and from Tradewind Charters through referrals when there are more charters than that carrier can handle. To secure charter business from the public applicant will advertise in the Yellow Pages and perhaps elsewhere as MARK'S Charters.

Applicant projects annual charter revenues of \$96,000 and operating expenses of \$75,860. Applicant offers 24-hour availability and a family-run operation:

"Our business phone is run out of our residence. My brothers and I do drive, so we're on a 24-hour type of service.

"We offer quotes that can be given 24 hours a day. We offer other special needs such as groups who require other necessities on their coach, possibly special music, any special needs that we try and provide as best we can. We try and offer the more of the personal touch as far as comfort on a ride to any destination.

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The vice president of operations of Co-Ordinators, the owner of Tradewind Charters, and a principal of Sierra Skier's Service testified in support of the application. Co-Ordinators prefers to charter buses rather than lease them and has need for the 24-hour service availability applicant offers. Sierra Skier's Service would frequently charter applicant's buses on winter weekends.

A district manager testified for Greyhound and placed a set of exhibits in evidence. Included was a copy of Greyhound's Class A certificate to operate as a charter-party carrier of passengers; a map showing what is included within 40 air miles of applicant's terminal; a copy of Greyhound's authority which covers all scheduled service provided in and out of the greater

Los Angeles area; Greyhound's timetables showing all routes and schedules on regular bus service; an exhibit to illustrate the number, type, and purchase price of all available Greyhound buses; a map showing where extra drivers are stationed and another showing garages and maintenance stations; a color photograph of a late model bus; a list of Greyhound's agents in the area; a brochure used by Greyhound to advertise and describe charter service; and an exhibit showing that in April 1981 there were 39 charters out of the area applicant seeks to serve, producing revenue of \$44,412.03, in May 1981 76 charters producing \$86,840.19, and in June 1981 75 charters producing \$85,409.10. Totals for the three months are 190 charters and \$216,661.32 in revenues.

He testified that on an annual basis Interstate 5 is the only profitable route Greyhound has in this area. The other routes are unprofitable and are supported by charter revenue. The witness stated that Greyhound's charter revenues for the Los Angeles area for the first nine months of 1981 were down \$800,000 from the 1980 level. Greyhound believes this loss is attributed primarily, if not exclusively, to increased competition in the area.

Discussion

Applicant has shown operational and financial fitness, offers around-the-clock accessibility for charters to meet emergencies, and can make charters available on short notice. Witnesses from Co-Ordinators, Tradewind Charters, and Sierra Skier's Service testified that at critical times there are not sufficient buses available for charter. Similar testimony was received in Application 60840. From Decision 82-01-91 in that

matter, we quote:

"Applicant's witness testified that there are not sufficient buses available for charter in Los Angeles, especially during the summer and on holidays. He has requested extra buses from Greyhound on 20 separate occasions and received the needed vehicles only once. On one occasion he called operators down to San Diego in an effort to obtain extra coaches without success. His office receives from two to 12 calls a day from people who need vehicles for charters. This testimony was corroborated by two other witnesses. A member of the Committee for the Whittier Hollywood Bowl Night stated that their celebration was almost canceled due to the difficulty in obtaining buses. A charter operator who serves the airlines testified that he has found it impossible to obtain sufficient buses when crews and passengers have to be moved from airports due to fog or canceled flights. An insurance agent testified that applicant has complete insurance coverage, far in excess of the minimum required by the Commission."

Findings of Fact:

1. There is a substantial public 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. Greyhound and other charter-party carriers transport charter groups from, to, and through the area applicant seeks to serve.

5. Greyhound and other charter-party carriers do not have at critical times sufficient buses to satisfy the demand for charters out of the Los Angeles area. Their services are therefore not satisfactory to the Commission.

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.

Conclusions of Law

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

2. Applicant should be authorized to pick up passengers within a radius of 33 air miles from his home terminal

at 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 Mark L. Rosenthal, authorizing him to operate as a Class B charter-party carrier of passengers, as defined in PU Code Section 5383, from a service area with a radius of 33 air miles from applicant's home terminal at 7331 Garden Grove Boulevard, Garden Grove, California.

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 415.

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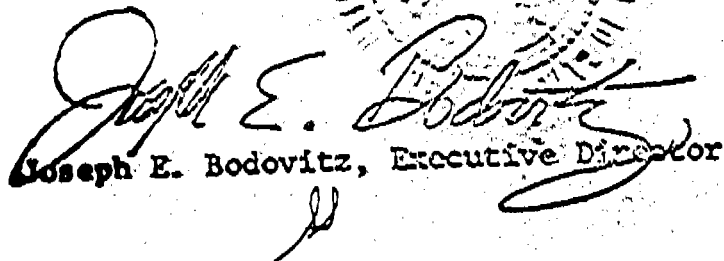
3. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115, and the California Highway Patrol safety rules.

This order is effective today.

Dated APR 21 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. CRAVELLE
LEONARD M. CRIMES, JR.
VICTOR CALVO
PRINCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director