

ORIGINAL

Decision 82 06 050

JUN 2 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SOUTHERN CALIFORNIA COMMUTER)
BUS SERVICE, INC., for modification)
of D.92326 to remove restrictions)
not to transport ARCO employees)
or to stop at ARCO Plaza.)

Application 61088
(Filed November 30, 1981)

SOUTHERN CALIFORNIA RAPID TRANSIT
DISTRICT,

Complainant,

vs.

Case 11047
(Filed November 23, 1981)

SOUTHERN CALIFORNIA COMMUTER BUS
SERVICE, INC.,

Defendant.

Ronald J. Hoffman, for Southern California
Commuter Bus Service, Inc., applicant
in A.61088 and defendant in C.11047.

Stephen T. Parry, for Southern California
Rapid Transit District, complainant in
C.11047 and protestant in A.61088.

K. D. Walpert, for Department of Transportation,
City of Los Angeles; James P. Jones, for
United Transportation Union; and James C.
Carson, for Commuter Bus Lines, Inc.;
interested parties.

Vahak Petrossian, for the Commission staff.

O P I N I O N

Background

In February 1980 Southern California Commuter Bus Service, Inc. (Com-Bus) filed Application (A.) 59434 with the Commission requesting authority under Public Utilities Code (PU Code) Section 1031 et seq. to extend its passenger stage commuter service (PSC-943) from Orange County to downtown Los Angeles over specific routes with specific pick-up and drop-off points. After a hearing in May 1980 (which was consolidated with a similar application from another company), we granted Com-Bus the authority it sought, but with restrictions involving (1) stops adjacent to ARCO Plaza in downtown Los Angeles and (2) the transporting of employees of ARCO, the primary occupant of the Plaza high-rise towers. In granting the authority we based our determination of public convenience and necessity on the fact that even though Southern California Rapid Transit District (SCRTD) had service over these same routes, there were waiting lists for the service. The grant and restrictions are set forth in Decision (D.) 92326 issued October 22, 1980 and effective 30 days thereafter. Com-Bus never instituted the service it was authorized to provide. This application (A-61088), filed November 30, 1981 by Com-Bus, seeks to remove the restrictions of D.92326. ✓

Prior to the filing of A.61088 SCRTD filed a complaint against Com-Bus (Case (C.) 11047) alleging that Com-Bus had announced its intent to begin service which would violate the restrictions of D.92326. SCRTD also filed a protest to A.61088.

A duly noticed hearing in the consolidated proceedings was held before Administrative Law Judge Alison Colgan on February 17 and 18, 1982, in Los Angeles. The record was held open for the receipt of two documents from Com-Bus on or before March 10, 1982. One of those documents, a draft report consisting of 57 pages and 3 appendixes entitled "Commuter and Express Bus Service in the SCAG Region: a Policy Analysis of Public and Private Operations", was timely submitted along with a cover letter from the Southern California Association of Governments (SCAG) attesting to its authenticity. This document is received as Exhibit 13. The other document, a letter from Com-Bus to PUC which is not relevant to the current proceeding, was not submitted on time, and will not be made a part of this record. The matters were submitted on March 10, 1982.

Com-Bus appeared as applicant in A.61088 and defendant in C.11047. SCRTD appeared as protestant in A.61088 and complainant in C.11047. Appearances were also made by the City of Los Angeles Department of Transportation (L.A.), the United Transportation Union (U.T.U.), and our staff. A representative from Commuter Bus Line, Inc. appeared, but did not participate.

Position of Com-Bus

Com-Bus' president, Ronald Hoffman, testified that Com-Bus could not initiate service without the availability of ARCO employees and the ability to load and unload passengers at ARCO Plaza. Tamara Hoffman, Com-Bus' vice president and operations manager, also testified that it would be difficult to get sufficient patronage without such access. She further testified that Com-Bus wished to participate in ARCO's subsidy program.

Mr. Hoffman claimed that Conejo Valley Bus Lines, operating a commuter service between Thousand Oaks and ARCO Plaza, carries ARCO employees and participates in ARCO's subsidy program.

He also asserted his opinion that conditions have changed since the issuance of D.92326 mandating a removal of the restrictions set forth in that decision. He stated that these changes were a fare increase by SCRTD, unimproved congestion around ARCO Plaza, financial problems of SCRTD, and that the Los Angeles County Transportation Commission and SCAG were in favor of commuter routes being served by private bus lines. He stated that the draft report which was then being printed by SCAG set forth its support for private bus companies over such routes. That report was filed after the hearing as Exhibit 13. We note that the conclusions on page 57 of the exhibit do point to economic advantage to the public to be derived from such private operation.

In addition, Com-Bus presented the testimony of an ARCO employee who rode on Com-Bus' free demonstration ride between ARCO Plaza and Huntington Beach. The witness testified that Com-Bus was more comfortable, that SCRTD's fare has gone up, that ARCO subsidizes one-third of the SCRTD commuter bus fare by direct payment to SCRTD, and that there is a waiting list for the SCRTD commuter line he rides.

Com-Bus also called Kenneth Walpert, an engineer with L.A., who testified that he believed Com-Bus' buses would have to double-park if they were permitted to load and unload adjacent to ARCO Plaza during rush hour. He stated that there is insufficient space along the sidewalk for more buses.

Position of SCRTD

The representative for SCRTD requested that this matter not be acted upon by the Commission until the California Supreme Court rules on a tax matter which will affect revenue available to SCRTD. He also stated that it is possible that SCRTD would give up these routes if the Supreme Court ruling is adverse to SCRTD.

SCRTD called Charles Watson, a driver on the SCRTD Long Beach commuter line, who testified that there was an unidentified bus in his bus zone at Huntington Center on the morning of November 13, 1981.

Then Joe Lyle, associate transportation planner for SCRTD, testified that Com-Bus' proposed routes and schedules were identical to those of SCRTD, and that 45% of the people employed in the central city core come to work by public

transportation. He also testified about the method SCRTD uses to start commuter service and about the dimensions of the inset bus zone (130 feet) on Figueroa Street adjacent to ARCO Plaza. He testified in detail about the commuter buses stopping in the ARCO Plaza area, describing their numbers and the location of their stops. He concluded that there is no more space for commuter buses on the west side of Flower Street and that Fifth and Sixth streets could not be used because they are one-way streets and the bus doors would open on the wrong side of the bus.

With regard to revenue derived by SCRTD from commuter lines, he said that such lines are only maintained if there are at least 35 passengers and that the revenue overall for these lines amounts to 103% of direct costs.

He also testified that additional service is needed and that a study done by his department indicates that bus patrons are willing to walk 1,000 feet to get a bus. He said 1,000 feet is about one and one-half blocks going north-south or about three east-west blocks in downtown Los Angeles.

On cross-examination he testified that all SCRTD's commuter buses into downtown go to ARCO Plaza and that it worked with L.A. and Los Angeles County to set up similar service to the civic center, but could not get sufficient patronage from any one area to succeed.

He admitted that his revenue figure of 103% did not include general and administrative costs or capital costs of equipment.

He also stated that SCRTD could not decide how to structure its future service until the Supreme Court decides the Proposition A sales tax case pending before it. ✓

Position of L.A.

Robert Camou, a transportation engineer with L.A. who has worked in traffic engineering operations for about seven years and who is a registered traffic engineer as well as a civil engineer, testified about the parking and stopping restrictions on each block around ARCO Plaza. He stated that congestion has not improved since 1980 but has increased in volume by 5%-10%. He also noted that there are major building projects close by at Flower and Fifth and at Figueroa and Fifth. With respect to additional commuter buses using the area, he testified that he believed they should use space on the east side of Figueroa, stay away from bus zones when SCRTD buses are in them, and/or stop on the west side of Figueroa.

On cross-examination, Camou testified that during afternoon peak hour there are 1,300-1,400 vehicles/hour going north on Figueroa and the same number going south on Flower. In addition, he stated there are about 800 vehicles/hour going south on Figueroa and 800-1,000 going north on Flower. It was his opinion that there is no room for Com-Bus buses while SCRTD buses are using the bus zones.

Position of U.T.U.

The U.T.U. did not present witnesses but engaged in limited cross-examination of the witnesses called by the other parties. It adopted the position of L.A.

Discussion

At the outset of the hearing SCRTD moved to withdraw its complaint, C.11047, against Com-Bus. There being no issue ripe for adjudication set forth in the complaint, the motion was granted.

The hearing proceeded with the matter of A.61088, Com-Bus' application to remove restrictions imposed by this Commission in D.92326. The specific restrictions of D.92326 being addressed by Com-Bus are found at pages 11-12 of that decision. In relevant part the decision states:

"...[M]indful of the positions of SCRTD and L.A., we will...adopt the following restrictions in [Com-Bus] operating [certificate]: (1) Com-Bus...shall not provide commuter service to ARCO employees who qualify for the transportation program established between the SCRTD and ARCO; and (2) Com-Bus...shall neither load nor unload passengers on any street adjacent to the ARCO Plaza.

"With respect to the last restriction, we will reserve the subject for future consideration in the hope that applicants can reach a satisfactory resolution with L.A. regarding the parking and congestion problem around the ARCO Plaza."

These restrictions were set as the result of testimony in the earlier proceeding by SCRTD that competition on its commuter routes would have an adverse impact on its revenues and patronage and on L.A.'s testimony that the streets adjacent to ARCO Plaza were already overcrowded at peak demand time (about 4:40 p.m.) and any further loading and unloading of buses would exacerbate an already difficult problem.

This Commission's primary function is to assure that the best interests of the public are promoted and protected by its actions. In that regard we are presented with a dilemma in this case. On the one hand, the evidence leaves no doubt that Com-Bus continues to be capable of providing the service it seeks, that it can probably do so at somewhat less cost to the rider than SCRTD can, and that its buses are more comfortable than those used by SCRTD on the routes in question. These attributes weigh in favor of Com-Bus. SCRTD made no attempt to cast doubt on Com-Bus' testimony as to these points.

Weighing against Com-Bus, on the other hand, are the claimed adverse impact upon SCRTD's system and its contention that these commuter or "subscription" routes are among its most profitable--requiring no subsidy or less subsidy than that needed on many other routes.

The evidence at this hearing, however, controverted that contention. The comments of the representative for SCRTD regarding the possibility of SCRTD's giving up these commuter routes if it lost its case before the Supreme Court indicate to us either that SCRTD does not know whether abandonment of its commuter service will adversely affect the remainder of its operations or believes that it will not. In addition, Exhibit 13, the SCAG draft report, encourages municipal transportation systems to give up commuter service to private companies for economic reasons.

This Commission is very concerned with protecting the needs of those people, especially residents of our large cities, who are dependent upon public transportation systems. We do not wish to adversely affect the viability of these transportation systems and thereby curtail service to those most dependent on these systems by authorizing commuter services which merely skim the cream from the public system. However, we cannot base a decision on conjecture. We were certainly given no facts during this hearing by either SCRTD or the representative for its drivers, the U.T.U., that would justify such a conclusion in this instance. Thus, we find no justification for continuing the restriction prohibiting Com-Bus from serving anyone who wishes to make use of its service even if those riders are presently SCRTD subscription riders. If this restriction removal does adversely affect SCRTD's system, we will entertain proof of that fact and proposals for its remedy at such time as they are presented to us.

The second restriction of D.92326 has to do with loading and unloading passengers on streets adjacent to ARCO Plaza. Testimony presented by SCRTD and L.A. made it clear that there is a definite congestion problem on the four streets in question--Fifth, Sixth, Flower, and Figueroa. There was uncontroverted testimony that bus stops on Fifth and Sixth (both one-way streets) are impractical or impossible. That leaves north- and southbound Flower and north- and southbound Figueroa.

According to Robert Camou, the heaviest traffic at rush hour is on the sides of Flower and Figueroa abutting the ARCO Plaza, and further rush-hour buses in these lanes would add to the congestion.

Camou and Joe Lyle, associate transportation planner for SCRTD, testified in detail about the afternoon rush-hour bus traffic on Flower and Figueroa. We are convinced from their testimony that L.A. has just cause to restrict further commuter buses on these streets during the hours when SCRTD commuter buses are picking up passengers. Their solutions seem reasonable. One was a restriction on use of the turnouts between 4:30 p.m. and 4:40 p.m., the time when SCRTD buses are loading; another was a restriction on the number of buses which can load at one time. Still another was a bus stop 150 feet away from the ARCO Plaza on the southwest corner of Figueroa and Sixth. This seems feasible given the SCRTD market research study, which Lyle described, that concludes riders are willing to walk up to 1,000 feet to board a transit vehicle. While the study appears to have some flaws, it does have some probative value.

Given Com-Bus' intimate knowledge of L.A. with the traffic problems of this area and the expertise it demonstrated at the hearing, we believe that we should not detail the times or the bus stops available to Com-Bus in this decision. Rather, we believe that Com-Bus should be required to work out such details with L.A. When an agreement between Com-Bus and L.A. is submitted to the Commission the authority to operate will be given effect.

Findings of Fact

1. A motion to withdraw C.11047 was granted.
2. The restrictions placed on Com-Bus in D.92326 were in response to the claims of SCRTD regarding adverse impact on its revenues and patronage and the claims of L.A. regarding congestion at rush hour around ARCO Plaza--rush hour being those times in the morning and afternoon when the majority of workers arrive at or leave their workplaces.
3. SCRTD's contention in D.92326 that competition on its commuter subscription routes would have an adverse impact on its revenues and patronage is no longer persuasive since evidence presented at this proceeding indicates SCRTD has no factual basis for making such a claim.
4. Traffic congestion around ARCO Plaza is 5%-10% heavier now than in May 1980, the time of the hearing in D.92326.
5. Com-Bus vehicles will aggravate the rush-hour congestion on the streets adjacent to ARCO Plaza unless the time and exact location of their loading and unloading activities are coordinated with the activities of other transit vehicles.

6. L.A. is the local agency with expertise in and responsibility for orderly traffic flow within the downtown area.

Conclusions of Law

1. Granting of the motion to withdraw C.11047 was a proper exercise of the authority of the administrative law judge and should be upheld.

2. The restriction of Com-Bus to access to ARCO employees who qualify for the transportation subsidy program established between ARCO and SCRTD is no longer supported by the facts and should be removed.

3. The restriction preventing all loading and unloading of Com-Bus passengers on streets adjacent to ARCO Plaza is overbroad and should be modified to permit loading and unloading on those streets at times and locations which L.A. determines will not cause further congestion during rush hours.

O R D E R

IT IS ORDERED that:

1. Case 11047 is dismissed under complainant Southern California Rapid Transit District's motion.

2. The certificate of public convenience and necessity granted to Southern California Commuter Bus Service, Inc. (Com-Bus) in Appendix A to Decision 83467 and amended by Decision 92326 is amended to delete the restriction regarding ARCO employees and modified regarding loading and unloading passengers adjacent to ARCO Plaza by incorporating First Revised Page 5-A, attached, in revision of Original Page 5-A.

3. With respect to rush-hour activities on streets adjacent to ARCO Plaza, Com-Bus may only load and unload passengers at times and locations approved by the City of Los Angeles Department of Transportation. That approval, in writing, shall be filed with the Commission before Com-Bus commences services. Any future modification to that approval shall also be timely filed with the Commission.

4. Applicant shall:

- a. File a written acceptance of this revised certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.

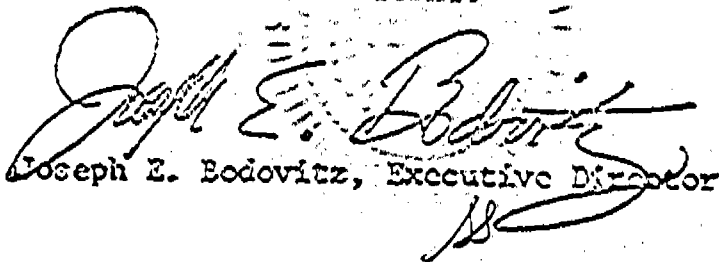
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

This order becomes effective 30 days from today.

Dated JUN 2 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

3. Certain points in Los Angeles and Orange Counties on the one hand, and Downtown Los Angeles on the other hand, as set forth in Routes CC 501, CC 503, CC 504, CC 505-1, CC 505-2, CC 508, CC 509, and CC 511 as described, subject to the following provisions:

- a. Routes shall be run for a minimum of 30 passengers using a 38-passenger (or greater) bus, and for a minimum of 10 passengers using a 13-passenger (or greater) minibus.
- *b. (Restriction removed)
- *c. (Restriction removed)
- *d. Passengers shall be loaded or unloaded in the Downtown Los Angeles area only at the time and locations approved by the City of Los Angeles Department of Transportation.
- e. When route descriptions are given in one direction, they apply in either direction unless otherwise indicated.
- *f. All transportation shall be limited to passengers whose origin or destination is one of the pickup points specified and whose destination or origin is Downtown Los Angeles, which is defined as the area bounded on the north by the Hollywood and Santa Ana Freeways, on the west by Western Avenue, on the south by the Santa Monica Freeway, and on the east by the Santa Ana Freeway.

Issued by the California Public Utilities Commission.

*Amended by Decision 82 06 050, in Application 61088.

O P I N I O N

Background

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