

ORIGINAL

Decision 82 06 099

JUN 15 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Department of Transportation,)
City of Los Angeles,)

Complainant,)

vs.)

Greyhound Lines, Inc.,)

Defendant.)

Case 82-04-03
(Filed April 9, 1982)

ORDER OF DISMISSAL

Defendant Greyhound Lines, Inc. has leased a terminal facility now under construction on Rincon Avenue near Rinaldi Street in the City of Los Angeles. The new terminal is located and designed to replace an old terminal serving the City of San Fernando.

Complainant Department of Transportation-City of Los Angeles alleges defendant is replacing the San Fernando depot and making the required route modification without Commission authorization. Complainant also alleges that the location of the new depot is not compatible with the neighborhood and that residents in the area have attempted to stop construction of the depot. On the basis of these allegations complainant seeks an order under Public Utilities (PU) Code §§ 701, 762, and 762.5 prohibiting defendant from establishing a depot at the new location.

In its answer to the complaint, defendant correctly points out that it holds the requisite authority to serve the new terminal. Defendant's certificate of public convenience and necessity (PSC-1) sets forth the route groups and routes over which it may operate. San Fernando is served under Route Group 13, Route 13.1 applicable between Fresno and Los Angeles:

"13.01 - Between Fresno and Los Angeles:

"From Fresno, over California Highway 99 to junction Interstate Highway 5 (Maricopa Junction), thence over Interstate Highway 5 to junction U.S. Highway 101 (Santa Ana Freeway Junction), Los Angeles.

"Authority is granted to serve all intermediate points, and also the points of Malaga, Fowler, Selma, and Kingsburg over available access highways to California Highway 99; and the points of Magic Mountain, College of the Canyons, San Fernando, and Glendale over available access highways to Interstate Highway 5."

Section III, General Conditions, Condition 5 provides as follows:

"5. Routes Within Urban Areas:

"(1) The right herein granted, in each instance, to serve named termini and intermediate points includes the right to operate to and from the company station or points of passenger pickup and discharge within each city, town, or community into or through which an authorized highway route passes, unless otherwise specifically restricted or limited.

"(2) If the routes to be traversed within any such city, town, or community are not specifically described herein, the company shall use the most direct and practical routes to and from the company station or points of passenger pickup and discharge therein."

Under Section III, Condition 5 of defendant's certificate, it has latitude to locate its terminal to serve San Fernando.

Complainant alleges that PU Code § 762 specifically grants the Commission jurisdiction over defendant's structures and their locations, and that § 762.5 requires the Commission in considering location of structures to give consideration to community values. PU Code §§ 762 and 762.5 apply only when the Commission, after hearing, finds that changes are required in the existing physical plant of a utility in order for the utility to provide adequate service to the public. Complainant makes no allegations that the proposed depot is inadequate, unsafe, or otherwise inappropriate. Complainant alleges that only the residents in the area of the new depot have indicated that the location of a bus depot is not compatible with the neighborhood and have attempted to stop construction of the depot structures.^{1/} A complaint brought under § 762 but not setting forth an act or omission in violation or claimed violation of any law or Commission rule or order as required by § 1702, and seeking to enjoin use of a structure rather than an order requiring the use of a structure or addition as provided by § 762 will be dismissed for failure to state a cause of action within the jurisdiction of the Commission. (P. Van Benschoten, et al. v San Diego Gas & Electric Co. (1962) 60 CPUC 83.)

As affirmative defenses, defendant asserts:

1. All necessary requirements, permits, and licenses have been obtained from the City of Los Angeles. The area of the new terminal is properly zoned for the intended use as a bus terminal.^{2/}
2. Complainant has failed to state or allege any wrongful activity by defendant that would require or justify the relief sought.

^{1/} This allegation is not supported by alleged facts or information in the complaint.

^{2/} The complainant has not taken issue with this defense.

3. Substantial improvement has already been completed in the property and substantive and permanent damage will result if the relief sought by complainant is granted.

Defendant requests an order dismissing the complaint. A public hearing would serve no useful purpose because there are no questions of fact which would bear on the jurisdictional issue we face.

The Commission concludes that the complaint should be dismissed for failure to state a cause of action within the jurisdiction of the Commission.

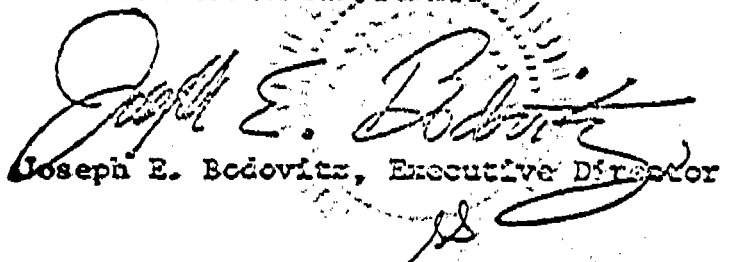
IT IS ORDERED that Case 82-04-03 is dismissed.

This order becomes effective 30 days from today.

Dated JUN 15 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

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Under Section III, Condition 5 of defendant's certificate, it has latitude to locate its terminal to serve San Fernando, ~~consistent, of course, with local land use zoning and permitting.~~