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SEP 22 1982

ORIGINAL

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CHAPARRAL TOURS, INC. for a)
Class B Charter Bus Certificate)
from home terminal in Imperial,)
Imperial County, California.)

Application 82-05-11
(Filed May 5, 1982)

Paul Slayback, Attorney at Law, for applicant.
James C. Ruane, for Goodall's Charter Bus,
Inc., protestant.

O P I N I O N

Chaparral Tours, Inc. (Chaparral), a California corporation, seeks authority to operate as a Class B charter-party carrier of passengers from its headquarters in Imperial, California. Chaparral proposes to provide such service with a 1967 MCI motor coach with a seating capacity of 39 passengers, excluding the driver.

Goodall's Charter Bus submitted a timely protest to the application. A duly noticed public hearing was held in this matter before Administrative Law Judge N. R. Johnson in Los Angeles on July 21, 1982, and the matter was submitted. Testimony was presented on behalf of Chaparral by its president-director, Andrea L. Danford; by the senior affairs director of the Economic Opportunity Commission (EOC), Ellen Jepson; by a volunteer employee for EOC, Inez Garrett; and by a supervising deputy sealer of the Imperial County Department of Weights and Measures, Robert Moore; and on behalf of Goodall's Charter Bus, Inc. (Goodall's) by its El Centro resident agent and driver, Robert Dodge.

Position of Chaparral

Testimony presented on behalf of Chaparral indicated that:

1. Chaparral has a temporary Interstate Commerce Commission (ICC) permit to serve seven western states and an application before this Commission for a certificate of public convenience and necessity (CPC&N) to operate sightseeing tours.
2. Witness Danford has extensive travel agency experience and currently manages the Princess Travel Service in El Centro in addition to being president-director of Chaparral.
3. Although witness Danford is manager of Princess Travel Service and president of Chaparral, the two companies are separate corporations with separate accounts, records, and personnel.
4. Chaparral owns a 1967 MCI 39-passenger, intercity bus.
5. Chaparral's current assets are \$70,000 and its current liabilities are \$4,300.
6. Chaparral's insurance broker is T.V.I. Insurance Brokerage located in Irvine, California.
7. Chaparral has access to a fully equipped and staffed repair facility capable of performing any maintenance work required for its bus.
8. A permanent demand for additional buses will be met by the purchase of additional buses. Periodic and/or intermittent demands for additional buses will be met by leasing the required buses from Greyhound Bus Lines (Greyhound) from its Phoenix, Arizona facility.

9. Chaparral's bus is comfortable as contrasted to Goodall's bus which lacks adequate leg space and is not equipped with footrests.
10. There is a need for the proposed operations as evidenced by letters from the El Centro Chamber of Commerce and Dr. Lloyd W. Dausman and the testimony of witnesses Jepson, Garrett, and Moore.
11. Chaparral has had several sightseeing tours and four charter-party operations without having first obtained the required CPC&N from this Commission.

Position of Goodall's

Testimony and evidence presented on behalf of Goodall's indicated that:

1. Goodall's is a well-established, large Class "A" charter-party bus company with authority to provide charter-party service any place within or without the State of California.
2. Goodall's maintains a resident agent in El Centro and possesses an El Centro business license.
3. Since the El Centro agent commenced operations in November 1980, Goodall's has had in excess of 225 charter-party operations from the area.
4. The El Centro office has access to all of Goodall's 40 buses.
5. There is no "deadhead" charge assessed Imperial area customers for bringing the buses from San Diego to Imperial or El Centro.
6. Goodall's bus is parked in a zoned residential area, but there are no parking restrictions prohibiting such parking.

7. Goodall's has been well-accepted in El Centro and is fully capable of completely fulfilling charter-party requirements of the area.

Discussion

The relevant portions of the Public Utilities (PU) Code relating to Chaparral's proposed operations are set forth in Sections 5375 and 5375.1. Section 5375 provides that if the Commission finds that CPC&N require the proposed service and the applicant possesses satisfactory fitness and financial responsibility to initiate and conduct the proposed transportation services and will comply with all applicable Commission regulations, it shall issue the requested certificate with whatever restrictions deemed necessary. If an applicant desires to operate in an area already served by the holder of a certificate, Section 5375.1 further requires that it be shown that the existing charter-party carrier of passengers serving the territory is not providing services which are satisfactory to the Commission and adequate for the public and that the Commission shall not issue more certificates than public convenience and necessity require.

In determining whether or not a proposed operation falls within the parameters established by PU Code Sections 5375 and 5375.1, the Commission considers such factors as: (1) public requirement for service, (2) adequacy of existing service, (3) adequacy of proposed service, (4) quality of proposed service, (5) revenue requirements and rates, (6) technical feasibility, (7) technical competence and financial integrity of the operator, (8) economic feasibility of the proposed operations, and (9) present operations. (Silver Beehive Tel. Co. (1970) 71 CPUC 304.)

The record clearly establishes the need for the proposed service as indicated by the testimony of Chaparral's witnesses. The next factor requiring consideration is the adequacy of the present service. Testimony presented on behalf of Chaparral indicated that some patrons of Goodall's found the legroom inadequate and indicated that in the future they would not participate in charter-party activities were buses with inadequate legroom to be used. These same patrons found the Chaparral buses to be wholly satisfactory. Consequently, viewed from this perspective, the present service provided by Goodall's is inadequate. However, we believe that such a shortcoming is relatively minor and in and of itself is not sufficient to find the service presently provided is inadequate.

We established guidelines for passenger stage corporations in D.91279 (3 CPUC 2d 246) where we stated:

"Finally, we wish to emphasize that we do not consider monopoly passenger stage service adequate service to the public. And we will not apply Section 1032 as a bar to deprive the public of the most innovative attractive, and agreeable bus service that may potentially exist for its benefit. Rather, we will apply Section 1032 in an enlightened manner, consistent with today's realities and requirements, which is what the Legislature intended when it granted to us the task of weighing all factors in determining whether existing passenger stage corporations provide adequate service."

Consequently, we cannot consider the monopoly charter bus service provided by Goodall's as adequate service to the public. While it is true that those bus companies, such as Greyhound, that possess Class A authority can also serve the area, we need consider only Chaparral and Goodall's with respect to the adequacy of charter-party bus service for Imperial and the surrounding area.

In addition, the record fully supports the granting of the requested authority with respect to the remaining factors considered by this Commission in determining whether or not to grant a certificate; i.e. adequacy of the proposed service, quality of the proposed

service, revenue requirements and rates, technical feasibility, technical competence and financial integrity of the operator, economic feasibility of the proposed operations, and present operations.

Findings of Fact

1. Chaparral possesses the ability, experience, and financial resources to perform the proposed service.
2. Protestant Goodall's maintains a resident agent and office in El Centro and provides charter-party bus service in the area.
3. Competition between Chaparral and Goodall's, to the extent it will exist, will have a beneficial effect for the public interest, will promote good service, and will encourage innovative rate schedules and practices.
4. The public desires and will use the proposed service. ✓
5. Public convenience and necessity require the service proposed by Chaparral.
6. Chaparral should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 148 East Worthington, Imperial, California.
7. 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. Existing charter bus service provided by Goodall's is conducted as a monopoly, without the benefit of competition to ensure the rendering of the best possible service to the public, and in view of the instant application is not service performed to the satisfaction of the Commission.
2. Chaparral should be authorized to pick up passengers within a radius of 40 air miles from its home terminal.
3. 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 applicant Chaparral Tours, Inc., authorizing it to operate as a Class B charter-party carrier of passengers, as defined in Public Utilities Code Section 5383, from a service area with a radius of 40 air miles from applicant's home terminal at 148 East Worthington, Imperial, California.

2. Applicant shall:

- a. Obtain California Highway Patrol (CHP) clearance for each vehicle to be used in this Class B charter-party operation.
- b. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to use.
- c. Establish the authorized service within 360 days after this order is effective.

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303, when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

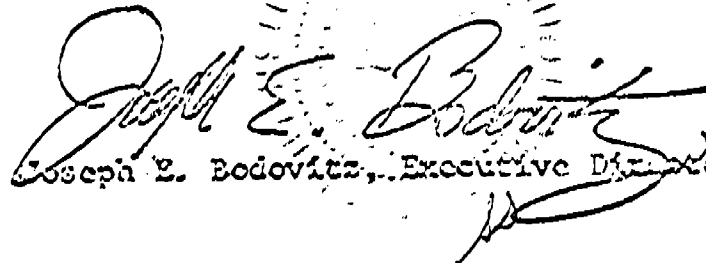
4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115, and the CHP safety rules.

This order is effective today.

Dated SEP 22 1982, at San Francisco, California.

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

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


Joseph E. Bodovitz, Executive Director

service, revenue requirements and rates, technical feasibility, technical competence and financial integrity of the operator, economic feasibility of the proposed operations, and present operations.

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3. Competition between Chaparral and Goodall's, to the extent it will exist, will have a beneficial effect for the public interest, will promote good service, and will encourage innovative rate schedules and practices.

5. *4. The public desire and will use the proposed service*
Public convenience and necessity require the service proposed by Chaparral.

6. Chaparral should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 148 East Worthington, Imperial, California.

7. 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. Existing charter bus service provided by Goodall's is conducted as a monopoly, without the benefit of competition to ensure the rendering of the best possible service to the public, and in view of the instant application is not service performed to the satisfaction of the Commission.

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