

ORIGINAL

Decision 82 09 034 SEP 22 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of EARL LYNN NELSON doing business)
as MAPLE LEAF TOURS, for a)
certificate to operate as a)
Class B charter-party carrier)
of passengers in Los Angeles)
County.)
_____)

Application 82-06-13
(Filed June 3, 1982)

Earl L. Nelson, for himself, applicant.
R. D. Rierson, for Greyhound Lines, Inc.,
protestant.

O P I N I O N

Introduction

In Application 82-06-13 Earl Lynn Nelson, dba Maple Leaf Tours, an owner-operated business, has requested a Class B certificate to operate as a charter-party carrier of passengers from his home terminal at 13111 South San Pedro Street, Los Angeles, California 90061.

Applicant is the owner of one 46-passenger bus. Applicant shows a net worth of \$302,473 as of May 20, 1982. This amount includes properties, a tire business, and the inventory of that business which are all owned by applicant.

Notice of the filing of the application appeared on the Commission's Daily Calendar on June 4, 1982, and copies of the application were served upon 75 southern California bus operators including Greyhound Lines, Inc. (Greyhound), protestant in this matter.

On June 28, 1982, Greyhound filed a protest and request for hearing with the Commission. A hearing was held before Administrative Law Judge Colgan on August 10, 1982 in the Commission's Courtroom in Los Angeles. The matter was submitted on the same day.

Applicant's Showing

Applicant testified that he has been employed by Southern California Rapid Transit District (SCRTD) for 27 years without any accidents and is presently a line instructor for that company. He stated that his duties as a line instructor include teaching SCRTD drivers to drive buses. Applicant also stated that he is presently operating under leased operating rights acquired from American Pacific in Santa Fe Springs. When questioned on cross-examination about the lease arrangement, he testified that he had decided to file for his own operating right because he believed it would be less expensive and he wanted to do things legally. ✓

When asked by the administrative law judge whether he would comply with the rules and regulations adopted by the Commission as required by PU Code Section 5375, applicant stated that he would do so. ✓

Applicant also testified that either he or his wife will drive the bus. He stated that he had trained his wife to drive the bus in the manner he used as an instructor for SCRTD. He stated that she is a capable driver. He stated that no one other than he and his wife would be driving the bus.

When questioned about whom he planned to serve, applicant stated that his service was aimed at serving senior citizen groups, churches, and clubs in the immediate vicinity of his home base in southeastern Los Angeles. He further stated that his business is a specialized service aimed especially at elderly black persons, many of whom are disabled or feeble. These persons, he explained, are members of various Christian churches in the southeastern Los Angeles area. Both applicant and his witness, the Reverend Dr. P. E. Miller, Sr., emphasized the importance of a personal relationship between the operators of the service and these elderly customers.

Reverend Miller was called by applicant as a character witness. Miller stated that he has known applicant for 38 years and that applicant is a man of good character who has always been concerned with the welfare of his community and the youth of his community. Miller emphasized that his own primary concern was the membership of the many churches which he represents in Los Angeles. Miller expressed his opinion that applicant was providing a unique community service.

Greyhound's Showing

Greyhound presented one witness in its behalf, Robert O. Burlingame, district manager for the Greyhound district which encompasses the area proposed to be served by this application. Burlingame testified that he supervises about 200 drivers, two terminals, and 61 sales outlets for Greyhound. He further testified about the nature of Greyhound's charter service stating that special services such as requesting particular drivers, requesting escorts on sightseeing charters, and requesting assistance of people getting on and off buses and deviating from contractually arranged bus routes were all possible. Furthermore, he stated that about 25% of the 200 drivers under his supervision are black.

Finally, Burlingame testified that he believed the proposed service would divert customers from Greyhound's charter service. He stated this was important because revenue from Greyhound's charter service is used to subsidize some of Greyhound's passenger stage lines which operate at a loss. In support of the contention that applicant would be likely to take away business from Greyhound, Burlingame offered Exhibit 12 which lists all the charter service actually sold by Greyhound during the three-month period from March through May 1982 within a 40-mile radius of applicant's home terminal. This exhibit shows that a total of 204 charters were sold. Upon questioning, Burlingame testified that of these only 26 could possibly be the sort of group and from within the area which applicant testified he was interested in serving. Many

of these 26, however, were clearly not persons whom applicant is presently soliciting; for example, riders from a high school in Whittier, California; a Japanese group departing from the Bonaventure Hotel in downtown Los Angeles; a Spanish group from Monterey Park; a USC college group; a group from Chinatown; and a senior citizens group from west Los Angeles. Based on Burlingame's description, applicant testified in rebuttal that it was not his intention to expand the type of service proposed to include any of the 26 examples Burlingame had described. However, applicant also added that he did not wish to have his authority restricted either as to number of buses, as proposed by Greyhound, or as to area, contending that he should have the right to expand if he can. This statement obviously described a future hope since early in his testimony applicant stated that he must often turn down four, five, or six charters in a week from the local community which he presently serves.

Discussion

Applicant appears to be fit and able to perform the proposed service, having the experience necessary for such an undertaking.

Although applicant submitted no environmental assessment under Rule 17.1(b)(1), we conclude that the nature of the service proposed could only result in salutary environmental effect.

We further conclude that the services offered by Greyhound in this service area do not permit groups within the particular community described by applicant an opportunity to select a service which they believe best meets their unique needs. Thus, there is no justification for denying or restricting the proposed charter-party service. ✓

Findings of Fact

1. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
2. The services provided in the area in question by protestant Greyhound are not satisfactory to the Commission or adequate for the public in that they do not adequately meet the needs of that segment of the community applicant seeks to serve.
3. Public convenience and necessity require the service proposed by applicant.
4. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 13111 South San Pedro Street, Los Angeles, California 90061.
5. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusion of Law

Public convenience and necessity have been demonstrated and a certificate should be granted. Given a need for the proposed service, the following 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 Earl Lynn Nelson 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 40 air miles from applicant's home terminal at 13111 South San Pedro Street, Los Angeles, California 90061.
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. ✓

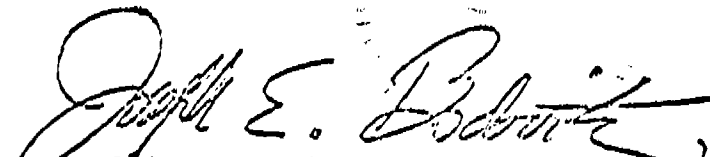
4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115 and the CHP safety rules. ✓

This order is effective today.

Dated SEP 22 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. 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

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35 Applicant