

ORIGINAL

Decision 82 12 022 DEC 1 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of Wil-Dom Industries, Incorporated,
for a certificate to operate as a
Class B Charter-Party Carrier of
Passengers in Santa Ana and
Lafayette, California.

Application 82-07-22
(Filed July 12, 1982)

Trey S. Holley, for applicant.
R. D. Rierson, for Greyhound Lines, Inc.
protestant.

O P I N I O N

Introduction

In Application (A.) 82-07-22 Wil-Dom Industries, Incorporated (Wil-Dom) has requested a Class B certificate of public convenience and necessity (CPC&N) to operate as a charter-party carrier of passengers from two home terminals. The first is located at 1200 North Main Street, Suite 530, Santa Ana, California 92701. The second is located at 1076 Carol Lane, Lafayette, California 94549.

Notice of the filing of the application appeared on the Commission's Daily Transportation Calendar on July 16, 1982, making direct notification to potential competitors unnecessary (Rule 15.1, Rules of Practice and Procedure, effective July 1, 1982). In addition, a copy of the application was served upon the Southern California Association of Governments.

On August 5, 1982, Greyhound Lines, Inc. filed a protest and request for hearing. A hearing was held before Administrative Law Judge (ALJ) Colgan on October 20, 1982 in the Commission's Courtroom in Los Angeles. The matter was submitted on the same day.

Applicant's Showing

Wil-Dom's first witness was Trey S. Holley who stated that he was vice president for marketing for American Hosts Tours. Holley explained that American Hosts Tours is the business name of American Hosts International, Inc. (AHI), a corporation of which Wil-Dom is the parent corporation. Holley testified narratively and offered several exhibits which were received in evidence. He explained that AHI presently sells tour packages domestically and internationally. Presently AHI contracts with bus suppliers to conduct the bus phase of its operations. By this application AHI wishes to purchase buses rather than contracting out for this service. He also stated that Wil-Dom is the holder of an Interstate Commerce Commission (ICC) license as a motor-coach carrier. For that reason Wil-Dom rather than AHI is the applicant in this matter.

When asked by the ALJ for some evidence of the statement in the application that applicant is capitalized at \$160,000, Holley offered the profit and loss statement for AHI for the period ending December 31, 1981 (Exhibit 2). Holley stated that he did not have such a statement for Wil-Dom. He further stated that Wil-Dom is also the parent corporation for P.S.H., Inc., a printing business.

We cannot grant a Class B certificate to a corporation which is not the one that will operate the service. In this case Wil-Dom is the applicant, but, according to Holley, its subsidiary corporation, AHI, is to operate the service. The fact that Wil-Dom may hold an ICC license does not alter the fact that Wil-Dom will not operate the proposed service.

Furthermore, the evidence indicates that AHI, for the most part, operates a sightseeing service rather than a charter-party service (see Exhibits 1, 3, and 4). To the extent that this is true, AHI would need to apply for a CPC&N to operate a passenger stage coach service over various routes under Public Utilities (PU) Code Section 1032. In Decision (D.) 93726 in A.59818 et al. issued November 13, 1981, we found that sightseeing-tour service over a loop is not that of a passenger stage corporation. However, the portion of that decision completely eliminating our regulation over sightseeing-tour carriers will not become effective until after judicial review. We announced in D.93726, and confirmed in D.82-09-087 issued September 22, 1982 (opinion on rehearing), that during this transitional period we would grant pending applications ex parte with temporary operating authority upon a showing that applicant had adequate public liability insurance.

Insofar as the service which AHI proposes will actually be a charter-party service, it will be necessary for AHI, in a future application, to present evidence to the Commission which shows that public convenience and necessity require the proposed service, that AHI has the fitness and ability to conduct it, and that the existing carrier (if the application is contested by such) does not have the ability to serve to the Commission's

satisfaction. Such a showing must specify the basis of applicant's conclusions, not merely reiterate the conclusions. If more than one home terminal is sought, as in the present application, they should be sought by separate application, each with a separate application fee. Such a procedure is likely to assure that applicant will then separately address the issue of public convenience and necessity and existing carrier's ability as to each location. In the present proceeding applicant's showing was confusing and inadequate in this respect.

Findings of Fact

1. AHI, a subsidiary corporation of Wil-Dom, is the corporation which would operate as a charter-party carrier under this application.
2. Some of the services proposed by this application are sightseeing-tour services of a passenger stage corporation rather than charter-party services.

Conclusions of Law

1. PU Code Section 3537 requires the proposed carrier to obtain a certificate to operate. In this application the applicant is not the corporation which proposes to operate. Therefore, this application cannot be granted.
2. Since passenger stage corporation authority has not been requested by this application, it cannot be granted either.
3. This order should be made effective immediately to permit immediate filing of proper applications as described in this opinion.

O R D E R

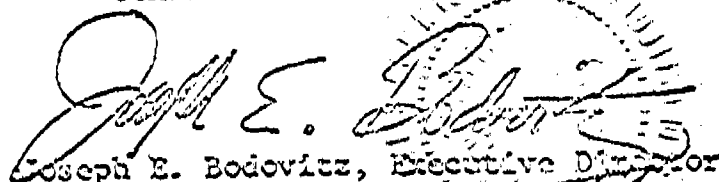
IT IS ORDERED that Application 82-07-22 is denied without prejudice.

This order is effective today.

Dated DEC 1 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