

Decision 83 01 037 JAN '12 1983.

~~CONFIDENTIAL~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GREYHOUND LINES, INC.)
for authority to discontinue and)
abandon a specific route of Route)
Group 12, San Joaquin, Stanislaus)
and Merced Counties.)

Application 82-05-57
(Filed May 24, 1982)

Anthony P. Carr, Attorney at Law, for
Greyhound Lines, Inc., applicant.
Doyle D. Dodd, for Stanislaus Area
Association of Governments, protestant.
Raymond D. Yick, for the Commission staff.

O P I N I O N

Greyhound Lines, Inc. (Greyhound) is a passenger stage corporation (Public Utilities (PU) Code § 226) offering intrastate and interstate scheduled and charter service between numerous points in California and between those California points and the rest of the continental United States. Its intrastate operating authority is set forth in Appendix A to Decision (D.) 55893 originally issued in 1957.

It seeks authority to discontinue the last remaining service to Gustine, Newman, Crow's Landing, and Patterson, all communities along California Route 33. Los Banos is one terminus of this schedule; the other terminus has been located in either Tracy or Modesto. Greyhound claims that traffic on this route has declined to the point where it is no longer economically feasible to continue operations without public subsidy. It also contends that the operation wastes fuel and unnecessarily pollutes the air.

A protest was filed by the Stanislaus Area Association of Governments (Association) which is a joint powers agency (Art. I, Ch. 5, Div. 7, Title I (§§ 6500 et seq. Government Code)). The members of the association include the county and several cities within the county including Patterson and Newman. The Association, among other functions, serves as the transportation planning agency for Stanislaus County.

The protest contends that the service in question provides public benefits and that Greyhound has failed to consider alternatives to discontinuance. The protest alleges that traffic increased during the period when a state subsidy was provided and that Greyhound's traffic counts were made during an off-peak period. Finally, it argues that there is a state policy to maintain daily scheduled intercity bus service to all communities of 5,000 population or larger, which would include Patterson.

The City of Los Banos, the City of Gustine, and the City of Patterson also protested. The County of Stanislaus requested a hearing. A letter of protest was filed by the Patterson-Westley Chamber of Commerce.

Hearing was held before Administrative Law Judge Gilman on August 16, 1982 in San Francisco. The matter was taken under submission on August 25 when Greyhound submitted a letter amplifying its position on a minor point.

Position of the Appearances

Greyhound claims that under the evidence, it is entitled to findings that it operates over Route 33 at an out-of-pocket loss

and that the public does not need the service. It contends that the Commission should permanently relieve it of any responsibility for serving the communities on this route.

Association, on the other hand, claims that Greyhound has not adequately pursued other courses of action which would substantially reduce its out-of-pocket losses while retaining a minimum of service to the communities served. The alternatives are:

1. Reducing service to a Monday/Wednesday/Friday schedule.
2. Diverting one of the 10 round-trips now operating between Modesto and Fresno to run over Route 33.
3. Providing a flag stop at an exit or rest stop on the Route 5 freeway; the local Dial-a-Ride service would be extended to provide a connection to Greyhound's express schedules which use Route 5.

Association's representative could not make a commitment on behalf of the member governments. He indicated, however, that it would be very unlikely that any local funds would ever be provided to subsidize this service even if that was the only way to retain service.

The Evidence

Applicant presented two witnesses; the first testified concerning the history of the service, public need, and results of operations. The second supplemented this testimony with information on Greyhound's records and accounts.

Prior to the spring of 1980, Greyhound offered a single round trip per day to cover Route 33. In the morning, a northbound local from Los Angeles stopped at Los Banos and then proceeded over

Route 33 to Tracy, connecting with a nonstop San Francisco service. In the afternoon, a nonstop San Francisco to Tracy bus connected to the Route 33 local. At Los Banos, the schedule became a Los Angeles-bound local.

Greyhound was subsequently provided with a substantial subsidy from the California Department of Transportation. It responded by offering two round trips per day; one between Fresno and Modesto, the other between Fresno and Tracy. As of June 1982 state funding was terminated and the service reverted to a single round trip per day.

Greyhound conducted a traffic study of both peak and off-peak months; it recorded passenger origin and destination as follows:

Passenger Counts
Feb. 15 to Feb. 26 1982
Summarized

| | <u>On</u> | <u>Off</u> | | <u>On</u> | <u>Off</u> |
|----------------|-----------|------------|----------------|-----------|------------|
| Beyond | 8 | 7 | Beyond | 4 | 7 |
| Patterson | 1 | 3 | Gustine | 3 | 0 |
| Crow's Landing | 2 | 1 | Newman | 2 | 5 |
| Newman | 3 | 5 | Crow's Landing | 0 | 1 |
| Gustine | 0 | 1 | Patterson | 5 | 0 |
| Beyond | / | 4 | Beyond | / | 8 |
| Total | 14 | 14 | Total | 14 | 14 |

(Two round trips/day)

July 12 - August 1, 1982
Summarized

| | <u>On</u> | <u>Off</u> | | <u>On</u> | <u>Off</u> |
|----------------|-----------|------------|----------------|-----------|------------|
| Beyond | 21 | 7 | Beyond | 25 | 7 |
| Tracy | 6 | 0 | Los Banos | 3 | 0 |
| Patterson | 25 | 14 | Gustine | 2 | 1 |
| Crow's Landing | 0 | 0 | Newman | 1 | 10 |
| Newman | 7 | 10 | Crow's Landing | 0 | 0 |
| Gustine | 2 | 2 | Patterson | 0 | 15 |
| Los Banos | 0 | 3 | Tracy | 0 | 6 |
| Westley | 0 | 2 | Westley | 0 | 2 |
| Beyond | / | | Beyond | / | |
| Los Banos | / | 30 | Tracy | / | 0 |
| Total | 61 | 61 | Total | 34 | 34 |

(One round trip/day)

During the winter period there were several days when the bus made a complete round trip without passengers.

Greyhound also presented an estimate of annual revenue and expenses:

Estimated Annual Income Statement

| | <u>Amount</u> |
|---|-------------------|
| Miles Operated | 40,150 |
| <u>Revenues</u> | |
| Passenger Revenue | \$ 2,126 |
| Express Revenue | <u>5,493</u> |
| Total Revenue | \$ 7,619 |
| <u>Expenses</u> | |
| Repairs to Revenue Equipment - Material | \$ 3,634 |
| Tires and Tubes | 1,229 |
| Drivers' Wages | 20,284 |
| Fuel for Revenue Equipment | 6,376 |
| Oil for Revenue Equipment | 265 |
| Commissions Paid | 726 |
| Ticket & Baggage Checks | 309 |
| Workmen's Compensation Insurance | 463 |
| Employees Welfare | 3,962 |
| Fuel & Oil Taxes | 883 |
| Social Security Taxes | <u>1,502</u> |
| Total Out-of-Pocket Costs | \$ 39,633 |
| Net Income Before Taxes | \$(32,014) |
| Provision for Income Taxes | <u>\$ (9,540)</u> |
| Net Income After Taxes | \$(22,474) |

(Red Figure)

The revenues and expenses are based on January to June, 1982 figures, annualized, except for drivers' wages which are stated at the May 1982 level and for fuel and oil which use June 1982

prices. Greyhound did not include vehicle depreciation so that the results would show a conservative picture of the deficit.¹ The express revenue is unallocated; it includes all revenue for outbound packages and no revenue for inbound service.

The operating witness asserted that the express revenue figure might be somewhat overstated since some portion of the revenue now received could be retained even if the bus service were totally discontinued.

He conceded that Greyhound's wage costs are substantially higher than those of other California bus lines which participated in the Department of Transportation (DOT) subsidy project. He asserted, however, that Greyhound is paying for the best and is actually receiving it.

¹ The data included in Greyhound's 1981 Annual Report would support an estimate that its average bus depreciation is 8.445 ¢/bus mile. If that figure were applied here, the variable costs would be increased by \$3,378 per year. Since this is a per mile figure, the depreciation allocated to this route would remain the same regardless of whether the assigned bus is used to serve points beyond Tracy/Modesto and Los Banos, as proposed by the Association, or whether it is idled at the end of each day's round trip.

The accounting witness explained that the income tax figures were stated on a companywide basis, including non-transportation revenue and expenses. The revenue projections were developed by means of a sampling method developed by the Commission staff, but modified to incorporate additional samples.

Association's representative noted that Greyhound proposes to retain numerous schedules between Fresno and San Francisco. Some make the trip between the two terminals in as little as 3 hours and 40 minutes; others take almost 7 hours because of numerous stops. He argues that one of the slow trips could be diverted to serve Patterson, Gustine, and intermediate points, without adding more than a half an hour to the duration of the trip.

In the alternative, he supported adoption of a three-day-a-week schedule. He argued that such a change should not greatly inconvenience local patrons, since the present schedule is such that it would be impossible to make a bus trip to San Francisco without a layover. He predicted that a reduction in service frequency would allow Greyhound to greatly reduce its expenses while retaining most of the passenger traffic.

He described the local public transportation services operated under subsidies allocated by Association, which has an annual budget of approximately \$5,000,000 for this purpose.

One of these services is a Dial-A-Ride operation which uses vehicles much smaller than Greyhound's 43-passenger buses. He advocated a third alternative which would use this service as a substitute for the service Greyhound proposes to discontinue. He

urged that the Commission require Greyhound to establish a flag-stop for its express buses on I-5² to allow a connection with the expanded Dial-A-Ride service. He suggested that the freeway rest stop at Vernalis be used for this purpose.

Since the hearing could not be held in the affected communities, the Association was permitted to introduce several letters from individual members of the public all of whom opposed discontinuance.

Summary

As explained more fully below, our order allows the local communities to choose between two alternative if they wish to retain service over Route 33. If they wish Greyhound to operate it, they must commit themselves to underwrite any deficit the operation produces. Alternatively, they can assume the responsibility of operating a substitute service themselves (presumably by extending the existing Dial-A-Ride service). Given the present record, such a substitute service would connect to Greyhound's other services at the same points as the discontinued service (Los Banos and Modesto and/or Tracy). Another connection point may be considered when and if the communities decide to institute such a service and furnish certain additional evidence.

Recent Federal legislation has made it impractical to consider any other alternative, unless it promises to completely eliminate applicant's operating deficit. We have determined that there are no other alternatives which would satisfy this objective.

² Interstate 5 roughly parallels Route 33.

Impact of Federal Legislation

Recent federal legislation can be expected to control the ultimate outcome of this proceeding, unless we find a means to avoid or at least materially reduce the deficit this operation now produces. This legislation (49 U.S.C. § 10935, cf. also § 10101 (a)(3)) establishes a means by which Greyhound could seek to overturn any unfavorable decision by this Commission.

In proceedings under that legislation, anyone opposing a bus route discontinuance³ must prove either that the discontinuance is not consistent with the public interest or that the service is not a burden on interstate commerce. In deciding the matter, the ICC will give great weight to the deficit predicted. It can also be expected to give great weight to any offer of subsidy.

This statute gives both substantive and procedural advantages to a discontinuing carrier and will greatly limit a state's regulatory powers to prevent the discontinuance of bus routes operating at a loss.

Because of the large deficit, it would be almost impossible to demonstrate that discontinuance is "not consistent with the public interest". While there is a public need for service, it is small and variable. The need is plainly for a subsidized, small-vehicle, on-call operation, not Greyhound's unsubsidized scheduled large-vehicle operation. The existing Dial-A-Ride can provide a more realistic means to satisfy the demonstrated need.

Therefore, as a practical matter, we should grant this application unless there is a real possibility that Association could successfully defend a contrary outcome before the ICC. As more fully set forth in the next topic, Association's first two alternatives would not produce a defensible outcome.

³ The act applies only to carriers who hold both intra- and interstate authority.

Alternatives

Association's first alternative was not adequately supported. There was no basis for the assumption that a three-day-a-week service would retain most of the current revenue. On the contrary, the origin/destination study shows that much of the present passenger traffic is local in nature. It is unlikely that local travelers would be willing to accept an overnight layover. We would, consequently, expect a substantial revenue loss. It is also likely that much of the package traffic would be lost. Therefore, we cannot find that a three-times-a-week service would provide satisfactory service, or that it would eliminate the deficit.

The second alternative: diverting other schedules to operate along Route 33 is likewise not a cure for the deficit. There is no claim, much less support, for a finding that such a change would significantly increase revenues or reduce Greyhound's actual outlays. In fact we would anticipate an increase in those costs which are sensitive to mileage.

We cannot evaluate Association's third proposal, i.e., that the local Dial-A-Ride be expanded into a substitute for the service Greyhound proposes to drop. This Commission has no jurisdiction over bus operations which are completely owned and operated by public entities; therefore, the task of determining whether such a service would be useful and cost-effective are matters which must be left to local officials. As a consequence, our order will authorize discontinuance regardless of whether local authorities decide to institute a substitute service.

It would be premature to consider the Association's proposal to establish a flag-stop connection between Dial-A-Ride and Greyhound's along Route I-5 service. Even if a firm decision had already been made to expand the Dial-A-Ride function, there would still be several unanswered questions concerning practical details of the operation (see Findings 8 through 11).

In the absence of proof to the contrary, we will find that an alternative service would be a full substitute for the discontinued operation if it can make connections with the remainder of Greyhound's service at its terminals in Los Banos and Tracy or Modesto. The conclusions and order confirm that Greyhound has essentially the same duty to make connections with any substitute service as it had when it was itself obligated to operate over Route 33. The Commission has retained sufficient jurisdiction to enforce that obligation if necessary.

Local Subsidy

It appears that the local communities do not believe that preserving this service is worth the expenditure of any public funds as a subsidy. It is unlikely that the decision will be changed. However, we should not take any steps which would make that decision irrevocable. Consequently, our order will make it possible for us to order a resumption of service if an adequate subsidy should be offered.

Findings of Fact

1. The public need is presently served by Greyhound's regularly scheduled once-a-day round trip between Los Banos and Tracy, using a full-size bus. The ridership is low and sporadic. On some days a bus will make a round trip without carrying any passengers; on others the bus will be empty on part of the round trip even on peak days. A single full-size bus will have substantial excess capacity on any round trip.

2. The passenger and express revenues from the existing service cover less than 20% of the operation's variable costs.

3. Serving the demonstrated public need with full-size buses operating on a fixed schedule is economically wasteful.

4. Three-day-a-week service is expected to reduce variable costs by less than one-half.

5. Greyhound would not retain all or most of the passenger and express revenue if it operated three days a week. It has not been shown that such service would satisfy most patrons who desire local service as passengers or shippers.

6. Diverting a Route 99 bus to serve along Route 33 will not increase Greyhound's system revenues; it would tend to cause a slight increase in gross costs.

7. Such diversion will not significantly reduce the avoidable deficit associated with Route 33 service.

8. There has been no showing that Greyhound and the local governments have authority to use the Vernalis rest stop area as a flag-stop interchange point between a substitute local service and Greyhound's Route I-5 schedules.

9. It has not been shown that there is a convenient, safe facility usable as a terminal at any point on Route I-5.

10. There has been no showing that a practical means of flag-stopping the Route I-5 service has been arranged or can be arranged.

11. There has been no showing as to the number of patrons who would use a flag-stop connection to Greyhound's through service.

12. With respect to passengers traveling beyond those communities, a local on-call service would be a complete substitute if it made connections at Greyhound's stations at Los Banos and at Tracy or Modesto.

Conclusions of Law

1. The Commission has jurisdiction to order a restoration of service along Route 33 if coverage of variable costs can be guaranteed.
2. The Commission has jurisdiction to resolve disputes over the adequacy of connection privileges afforded if a substitute service is instituted.
3. The findings will not support an order for three-day-a-week service or an order to detour Route 99 service along Route 33.
4. A decision whether to expand an existing bus service completely owned and operated by governmental authorities as a substitute for or an alternative to a discontinued passenger stage route is not within the scope of this Commission's jurisdiction.
5. The application should be granted as provided by the order which follows.

O R D E R

IT IS ORDERED that:

1. Greyhound Lines, Inc. is authorized to abandon local service along California Route 33 between Gustine, Newman, Crow's Landing, Patterson, and Westley.

2. Greyhound Lines, Inc. is authorized to serve passengers from points along Route 33 by providing bus service to and from its termini in Los Banos, Tracy, and Modesto, providing adequate connections with any public or private carrier providing passenger and express service along Route 33.

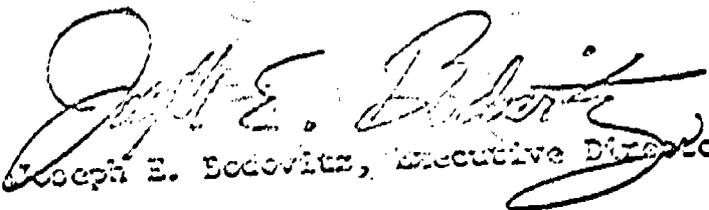
3. Subject to further Commission order, Greyhound's certificate of public convenience and necessity is amended by substituting Appendix A for Page 29-A of Greyhound's certificate of public convenience and necessity.

This order becomes effective 30 days from today.

Dated JAN 12 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director

T/jc /jt

Appendix A

GREYHOUND LINES, INC. Second Revised Page 29-A
Cancels
First Revised Page 29-A

12.16 - Between Westside Junction and Modesto:

From junction U.S. Highway 50 and California Highway 33
(Westside Junction), over California Highway 33 to Vernalis
Junction, then over California Highway 132 to Modesto.

*12.17 - Intentionally Left Blank.

Issued by California Public Utilities Commission.

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*Revised by Decision _____, Application 82-05-57.

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In proceedings under that legislation, anyone opposing a bus route discontinuance³ must prove^{substantive} that the ^{discontinuation} operation is either not consistent with the public interest or that the service is not a burden on interstate commerce. In deciding the matter, the ICC will give great weight to the deficit predicted. It can also be expected to give great weight to any offer of subsidy. KL

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