

Decision 83 01 044 JAN 12 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Transportes Rapido, Inc., for)
certificate of public convenience)
and necessity to operate a)
passenger and express baggage)
transportation service between)
Los Angeles, California, and)
San Ysidro, California.)

Application 82-07-04
(Filed July 1, 1982)

John C. Funk, Attorney at Law, for applicant.
Richard Hannon and R. D. Rierson, Attorneys
at Law, for Greyhound Lines, Inc.,
protestant.
K. D. Walpert, for Department of Transportation,
City of Los Angeles, and James P. Jones,
for United Transportation Union, interested
parties.

O P I N I O N

By this application, Transportes Rapido, Inc. (TRI) seeks authority as a passenger stage corporation for the transportation of passengers and their baggage, as well as express baggage, nonstop between Los Angeles and San Ysidro, California. TRI intends to provide such services in four 12-passenger Ford, Chevrolet, or Dodge vans. TRI also intends to provide on-call home pickup service for customers in the Los Angeles area who will be traveling to San Ysidro and destination drop-off service for customers traveling to the Los Angeles area from San Ysidro. Baggage of persons other than passengers will be transported between the two cities if

space is available, subject to weight, price, and volume restrictions set forth in Section 5.3 of the application. TRI will provide a waiting area with toilet facilities in each of its offices for departing and arriving passengers. TRI envisions the baggage-only service to be incidental to its proposed passenger service.

Greyhound Lines, Inc. (Greyhound), which is authorized to perform regular route operations as a passenger stage corporation over a network of regular routes throughout the State of California including the area TRI proposes to serve, protested the application.

Following notice, a public hearing was held in Los Angeles on September 29 and October 18 and 19, 1982 before Administrative Law Judge William A. Turkish. The matter was submitted upon the filing of late-filed Exhibits 16 and 17 on October 29, 1982.

Testimony on behalf of TRI was received from 11 public witnesses, all of whom described the proposed service of TRI as desirable and beneficial to the Spanish-speaking community in Los Angeles. In addition to the testimony of public witnesses, testimony was also received from two TRI officers. Testifying on behalf of Greyhound was its Los Angeles district manager.

The following is a summary of the evidence presented by the president and secretary of TRI:

1. The motivation of the principals of TRI for forming the corporation and initiating the proposed service was to fill the unmet need of the Spanish-speaking community of East Los Angeles who travel between the cities of Los Angeles and San Ysidro, at the Mexican border, and the

desire of the principals of TRI to replace the many illegal carriers who solicit business from Greyhound customers at Greyhound's Los Angeles terminal for transportation to San Ysidro. These illegal carriers charge whatever the traffic will bear and they do not carry insurance.

2. TRI intends to operate a personalized on-call service which, upon 24-hour notice, will pick up passengers at their homes within a radius of 10 miles of TRI's terminal who wish transportation by TRI to San Ysidro. This feature is appealing to those persons who have no means of public transportation to get to the Greyhound terminal in Los Angeles. Similarly, those passengers being transported from San Ysidro to Los Angeles will, upon reaching TRI's terminal in Los Angeles, be taken directly to their ultimate destinations within a 10-mile radius of the terminal without having to seek other means of transportation.
3. Another feature of TRI's service will be the use of bilingual drivers with whom the passengers can converse in their native language to obtain information, schedules, or directions.
4. TRI intends to provide direct nonstop transportation service between Los Angeles and San Ysidro, unlike Greyhound, which makes a stop in San Diego prior to reaching San Ysidro.
5. TRI proposes three departures from Los Angeles and three departures from San Ysidro on Friday, Saturday, Sunday, and Monday, and two departures in each direction on Tuesday, Wednesday, and Thursday of each week.

6. TRI proposes fares of \$12. per person for adults and \$6 per person for children under 12 years of age, when accompanied by an adult. For its on-call service, TRI proposes to charge rates of \$1 to \$4 per person, depending on the distance from its Los Angeles terminal.
7. TRI has determined that many Spanish-speaking passengers traveling between Los Angeles and San Ysidro have, in large part, done so in unlicensed transport vehicles. This condition has led to the creation and operation of an underground taxi service which is unregulated by the authorities and condemned by the existing transportation carriers. TRI's intimate knowledge of the needs and desires of the Mexican-American community can help stem this unauthorized trade by providing an alternative and relatively inexpensive regulated motor transportation service to and from the Mexican border with proper insurance coverage.
8. TRI's initial capitalization is \$30,000. It is the intention of the principals of the corporation to purchase the proposed 12-passenger Ford vans individually and then lease them to the corporation.

The following is a summary of the evidence presented by Greyhound's Los Angeles district manager:

1. Greyhound currently has 17 daily direct buses southbound to San Ysidro and 14 daily direct buses from San Ysidro to Los Angeles. In addition to these schedules, Greyhound has 12 daily buses southbound to San Diego and 17 northbound with a transfer at San Diego.

These schedules operate over a 24-hour period. The running time for the trip from Los Angeles to San Ysidro is three hours which includes a 20-minute stop in San Diego.

2. Greyhound stops at San Diego in order to establish a port of entry where Greyhound has to ascertain that all baggage on the bus belongs to passengers on the bus in order to clear Mexican customs before entering Tijuana. Although passengers scheduled for San Ysidro can check their baggage directly to San Ysidro, the bus still stops at San Diego for approximately 10 to 20 minutes.
3. Greyhound has employees at its Los Angeles terminal who speak Spanish and, generally, announcements are made in English, followed by Spanish. The same holds true at the Greyhound terminal in San Ysidro.
4. Greyhound advertises all of its routes in the Spanish language using Spanish radio and television stations within the Los Angeles area. In addition, Greyhound produces timetable information in both English and Spanish and in all major city locations, Greyhound advertises in Spanish as well as in English publications.
5. One-way and round-trip tickets sold in Los Angeles with a destination of San Ysidro during the month of July 1982 totaled 4,510. From San Ysidro to Los Angeles during the same period of time, a total of 7,280 tickets were sold. For the first seven months of 1982, the Los Angeles-Tijuana traffic amounted to 65,760 passengers. These figures indicate clearly that Greyhound

is adequately meeting the needs of passengers desiring transportation between San Ysidro and Los Angeles.

Discussion

Although lacking direct experience as bus operators, the principals of TRI have demonstrated personal fitness and have shown financial responsibility to adequately conduct the proposed service.

In the past, we gave consideration to relatively few factors in determining whether the service of existing carriers was satisfactory in passenger stage certificate applications. Previously, we considered only the adequacy of the service, adequacy of the equipment, and the reasonableness of the rates. These had the effect of supporting monopolistic service in the field of passenger bus service. In D.90154 issued April 10, 1979, we closely examined the question of whether monopoly service is of itself unsatisfactory service to the public, and we observed that this nation's antitrust laws and policies are premised on the understanding that competitive service generally results in a superior level of service to the public. We also pointed out that competition tends to bring out the highest degree of effort and imagination in a business endeavor to the benefit of the public. The relevant Public Utilities (PU) Code provisions considered in D.90154 were Sections 1031 and 1032, which deal with passenger stage certification. More recently in D.91279, we again examined Sections 1031 and 1032 and the benefits of competition in a passenger stage bus application in further depth.

After reviewing the history of Section 1032 and its various conflicting interpretations by this Commission over the years, we pointed out that the regulatory posture of this Commission, as well as regulatory agencies throughout the country, was undergoing a metamorphosis with respect to the transportation industry and that the value of competitive effect on the transportation utility operations as well as federal and state antitrust laws would be given consideration in determining public convenience and necessity. Public convenience and necessity, broadly speaking, are synonymous with the public interest. After weighing the advantages and disadvantages of competitive and monopolistic service in terms of overall benefits to the general public, we concluded that competition stimulates efforts of competitors to excel and that this accrues to the benefit of the general public. We also concluded that we would give precedence to the basic regulatory concept of public convenience and necessity encompassing Section 1031 and that we would interpret Section 1032 as being of secondary importance in certificate matters.

In D.91279 we also undertook the task under Section 1032 of determining whether, and under what circumstances, existing passenger stage corporations provide satisfactory service, and we stated that it was our belief that monopoly service (resulting from regulators protecting a carrier by excluding new entrance) was not satisfactory service. We were of the opinion that monopoly service deprives the public from being served by carriers with the greatest incentive to innovate and provide the most appealing service--the incentive of competition.

Competition generally offers the potential of better service, cleaner and better maintained equipment, and lower fares.

From the evidence adduced during this hearing, we find, in any event, that the transportation service proposed by TRI differs greatly from the service provided by Greyhound. In addition to using only 12-passenger vans, TRI will provide Spanish-speaking drivers for the benefit of its passengers and will also conduct a nonstop operation between Los Angeles and San Ysidro. In addition, the on-call service proposed by TRI, where it will pick up passengers at the passengers' residences within a 10-mile radius of its Los Angeles terminal, appears to be an attractive feature and one which is not furnished by Greyhound. Those passengers arriving in Los Angeles from San Ysidro will likewise have the opportunity to be transported directly to their ultimate destination, if such destination is within a 10-mile radius of TRI's Los Angeles terminal.

Since this Commission's present policy favors fostering competition to ensure that members of the public have the opportunity to select a service which best serve their needs, the application should be granted.

Findings of Fact

1. TRI proposes to provide transportation service for passengers, their baggage, and express baggage transportation between Los Angeles and San Ysidro, California, using four 12-passenger vans.
2. TRI has the ability and financial resources to perform the proposed service.
3. The service to be provided by TRI differs materially from that provided by Greyhound, the existing operator on this route. TRI operates only 12-passenger vans, while Greyhound operates 40-passenger buses. TRI will provide Spanish speaking drivers, while

Greyhound does not regularly provide Spanish speaking drivers, and TRI will provide nonstop service between Los Angeles and San Ysidro, while Greyhound's operations on this route are local. In addition TRI will pick up passengers within a 10-mile radius of its Los Angeles terminal. ✓✓✓

4. Public convenience and necessity require that the service proposed by TRI be established.

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.

6. Competition between TRI and other certificated passenger bus carriers, to the extent that it will exist, will have a beneficial effect for the public interest in that it will lead to better service and promote lower fares.

Conclusions of Law

1. The provisions of the PU Code § 1032 are not applicable because the service proposed by TRI is different from the service performed by Greyhound.

2. The requested authority should be issued as provided in the following order.

Only the amount paid to the State for operating rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Transportes Rapido, Inc., a corporation, authorizing it to operate as a passenger stage corporation, as defined in PU Code Section 226, between the points and over the routes set forth in Appendix PSC-1279, to transport persons, baggage, and/or express.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

3. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by the airport authority involved.

This order becomes effective 30 days from today.

Dated January 12, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

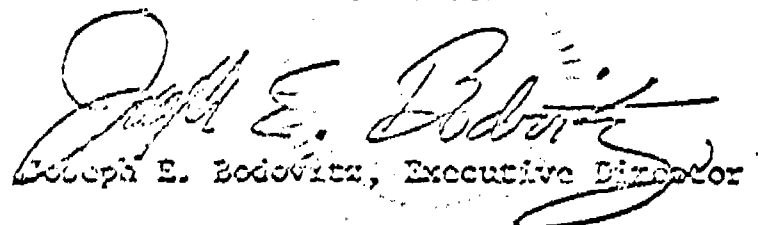
VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

Commissioners

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


Joseph E. Bodovitz, Executive Director

T/mb

Appendix PSC-1279

TRANSPORTES RAPIDO, INC.

Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC - 1279

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by the Public Utilities
Commission of the State of California will be made as
revised pages or added original pages.

Issued under authority of Decision S3 01 044, dated JAN 12 1983,
of the Public Utilities Commission of the State of California, in
Application 82-07-04.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Transportes Rapido, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation to transport passengers, baggage, and express shipments of packages of less than 100 pounds, on both scheduled and "on-call" bases, between Los Angeles and San Ysidro, over and along the routes described, subject, however, to the authority of this Commission to change or modify these points or routes at any time and subject to the following provisions:

- a. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- b. The term "on-call" as used refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized on-call service will be rendered.
- c. Applicant reserves the right not to render on-call service if reservations are not made at least 24 hours in advance.

Issued by California Public Utilities Commission.

Decision 83 01 044, in Application 82-07-04.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS. (Continued)

- d. Applicant shall load the on-call passengers, return to the Los Angeles terminal, and, only then, depart for San Ysidro. Similarly, applicant shall unload passengers traveling to Los Angeles at the Los Angeles terminal prior to unloading the on-call passengers at their requested destinations.
- e. On-call service shall be restricted to an area within ten-mile radius of applicant's Los Angeles terminal.
- f. Express shipments will be transported incidental to the passenger service.
- g. In no event shall applicant provide service to persons under the influence of alcoholic beverages. While the applicants vehicles are in transit, no smoking or consumption of alcoholic beverages will be tolerated.

Issued by California Public Utilities Commission.

Decision 83 01 044, in Application 82-07-04.

Appendix PSC-1279 TRANSPORTES RAPIDO, INC. Original Page 3

SECTION 2. ROUTE DESCRIPTIONS.

From applicant's principal place of business in Los Angeles via the most appropriate streets to the Santa Ana Freeway (Interstate Highway 5). South on Interstate 5 to San Ysidro Boulevard and to the location of applicant's San Ysidro office. Service originating in San Ysidro shall follow the same route in reverse.

Issued by California Public Utilities Commission.

Decision 83 01 044, in Application 82-07-04.

Greyhound does not regularly provide Spanish speaking drivers, and TRI will provide nonstop service between Los Angeles and ^{San} Ysidro, while Greyhound's operations on this route are local. In addition TRI will pick up passengers within a 10-mile radius of its Los Angeles terminal. Kn

4. Public convenience and necessity require that the service proposed by TRI be established.

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.

6. Competition between TRI and other certificated passenger bus carriers, to the extent that it will exist, will have a beneficial effect for the public interest in that it will lead to better service and promote lower fares.

Conclusions of Law

1. The provisions of the PU Code § 1032 are not applicable because the service proposed by TRI is different from the service performed by Greyhound.

2. The requested authority should be issued as provided in the following order.

Only the amount paid to the State for operating rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

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2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. State in its tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 79, 98, 101, and 104, and the California Highway Patrol safety rules.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

3. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by the airport authority involved.

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