

Decision 83 02 053

FEB 16 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Greyhound Lines, Inc. for authority to revise, reauthorize and discontinue specific routes or Route Groups 1, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 17, and 18; Contra Costa, San Benito, San Diego, Solano, Sonoma, Monterey, Madera, Merced, San Joaquin, Tuolumne, San Luis Obispo, Santa Barbara, Imperial, Riverside, Kern, Kings, Napa, Fresno, Stanislaus, Tehama, and Colusa Counties.

Application 83-01-17
(Filed January 14, 1983;
amended January 21, 1983
and February 11, 1983)

ORDER OF DISMISSAL

Application (A.) 83-01-17 of Greyhound Lines, Inc. (Greyhound) filed January 14, 1983 and amended January 21, 1983 and February 11, 1983, requests the deletion of over 90 service points and a variety of service routes from Greyhound's passenger stage certificate of public convenience and necessity. The application sets forth no reasons in support of Greyhound's requested deletions and contains no traffic, cost, or revenue studies pertaining to the subject points or routes.

Greyhound states in its application that it plans to pursue its request for the deletions in conformity with the federal Bus Regulatory Reform Act of 1982 (Public Law 97-261) (the Act). Under the Act, state agencies, such as this Commission, which have regulatory jurisdiction over intrastate bus service have only 120 days to finally act on applications such as A.83-01-17; otherwise, the applicant may petition the Interstate Commerce Commission (ICC)

for authority to effectively discontinue such intrastate service (49 U.S.C. § 10935(a)). 49 CFR Part 1169 requires that such ICC petition must, among other things, contain the carrier's verified statement setting forth evidence described in Appendix A to this order.

On January 20, 1983, the Commission staff (staff) sent a data request in writing to Greyhound for specific information regarding the points and routes Greyhound seeks to have deleted from its certificate (attached to staff's motion as Appendix A to Affidavit of William Well). The information sought was similar to that which must be contained in an applicant's petition to the ICC or in an objection to such a petition filed by the Commission (49 CFR Parts 1169.5 and 1169.22). The staff informed Greyhound that if it did not provide all of this information to the Commission by January 31, 1983 that the staff would immediately move for dismissal of the application without prejudice. In response to the staff's written request, Greyhound, under letter dated January 28, 1983, furnished only the following information:

1. A list of actual points proposed to be deleted and a map with these points marked in yellow.
2. Copies of current and proposed timetables respecting the subject points.
3. Copies of tariffs already filed with the Commission (which include information concerning rates).
4. A document showing passenger ticket sales and express passenger revenues for four out of over 90 service points.
5. An ambiguous table showing route miles and alleged timesavings from discontinuing service to the subject points.

Because Greyhound did not substantially comply with the staff's data request, on February 2, 1983, the staff filed a motion to dismiss A.83-01-17 unless Greyhound, on or before February 11, 1983, filed, as a further amendment to its application, certain information specified in the motion alleged to be necessary for the evaluation of the application. In its motion, the staff contends that the application, as it now stands, is incomplete and lacks sufficient information to allow the staff or interested parties to evaluate Greyhound's request or determine if subsidies could be offered to retain service to these points.

Since the staff filed its motion on February 2, Greyhound filed a response to the motion and on February 8, 1983, sent to the staff some further information regarding the routes listed in its application. In its reply, Greyhound contends that the staff's motion is now moot as a result of Greyhound's January 28 and February 8 letters and attached materials. This contention is without merit because Greyhound's transmittals fail to contain information requested by the staff and essential for review and analysis of Greyhound's application by the staff and interested parties. The transmittals fail to supply the information requested in the staff's data request of January 20, 1983 in the following particulars:

1. Traffic. The staff requested traffic data for a recent representative period, showing numbers of interstate and intrastate passengers (by classification if more than one type of ticket is sold) destined to and originating from each point to be abandoned.

Greyhound submitted no traffic data for passengers for any of the points or routes to be abandoned. Lack of this data precludes a finding of whether or not the discontinuance of the services will have an adverse impact on the public interest and the degree of such impact.

2. Revenues. The staff requested data on the annual interstate and intrastate passenger and other revenues which accrue as a result of the service to be abandoned, for each point or route.

Greyhound failed to submit this data in most cases. Instead, Greyhound submitted data showing the net reduction in Greyhound's systemwide revenues resulting from the proposed abandonments. In all cases where there was another pickup point within 10 miles of the point proposed to be abandoned Greyhound assumed that it would incur no loss of revenue.

Without this data requested by staff, as well as the missing data in paragraph 3 below, it is impossible to determine how much of a loss, if any, Greyhound is incurring at any particular point, or even along several points in a route. Thus, it is also impossible to determine what subsidy would have to be provided in order to retain service.

3. Variable costs. The staff requested data on the variable costs of operating to each point proposed to be abandoned with a full explanation of the assumptions contained in those calculations. Instead, Greyhound provided data aggregated for up to 16 points with an inadequate explanation of how the data were derived.

The staff contends that Greyhound's application is so incomplete and the time permitted for staff and public review is so limited under the Act that it will be virtually impossible for the Commission to solicit further data from Greyhound, to analyze all of the information, to participate in public hearings, and to render a decision by mid-May as required by the federal act. The staff believes that Greyhound's failure to provide the necessary

information in a timely manner supports dismissal of its application. Furthermore, it is evident that Greyhound, due to its lack of preparation of data to support its request, is not prepared to go to a timely hearing on its application. Greyhound has not even come forward in the case with any reason why it wants to delete the subject points and routes.

Greyhound has not timely filed a response to the staff's data request or furnished the information in an amended application as requested in the motion.

Greyhound's application, as amended, seeks the discontinuance of service to over 90 points in California, but never clearly delineates these points in the application or amendment. Despite staff's request that Greyhound furnish this data, including a listing of these points, to the affected cities and counties, Greyhound refused to do so. Consequently, the governing bodies of many of these cities and counties still do not understand if or how their communities will be affected by Greyhound's proposed abandonments, and therefore, they are unable to make informed decisions as to whether or not they should participate in the Commission's proceedings. Greyhound's failure to provide sufficient notice to these cities and counties is a further reason to dismiss its application without prejudice to its right to refile a comprehensible and informative application.

In view of the time constraints placed on the Commission by the Act, this order will be made effective immediately.

Therefore, IT IS ORDERED that:

1. The motion of the staff filed February 2, 1983 requesting that A.83-01-17 be dismissed without prejudice is granted.
2. A.83-01-17 is dismissed without prejudice to the filing of a new application.

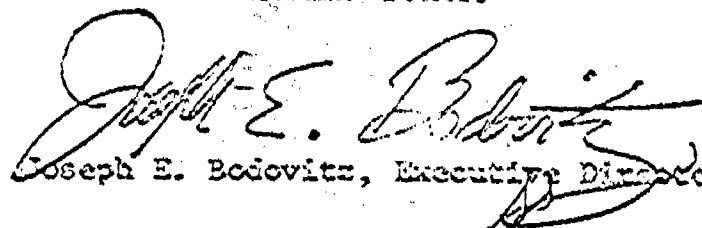
This order is effective today.

Dated February 16, 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

APPENDIX A
Page 1

49 CFR Part 1169.5

1169.5 The petitioning carrier's verified statement.

The carrier's verified statement must contain all of the evidence it intends to submit concerning at least the following issues:

- (a) Description of the carrier's pertinent present operations and the way the proposed discontinuance or reduction in service will change these operations;
- (b) Identification of the date on which the request was made to the appropriate State body for permission to discontinue or reduce the involved service and the dates of any actions the State body may have taken on that request, and any description of the proceedings conducted by the State body which the carrier believes to be relevant to the petition;
- (c) Calculation of the annual interstate and intrastate passenger and package express revenues which accrue as a result of the service which would be discontinued or reduced (but not including revenues which the carrier expects to receive in connection with other services which it will still operate), with an explanation of how the revenues were calculated and of any assumptions underlying the calculations;
- (d) Description of the rates and pricing practices applicable to the affected service;
- (e) Calculation of the variable cost of operating the affected service, with an explanation of how the costs were calculated, and of any assumptions

APPENDIX A
Page 2

- underlying the calculation (assumptions should be consistent with those used to estimate revenues);
- (f) Description of any present operating subsidies or financial assistance applicable to the affected service, and of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the petition;
 - (g) Description of any other public transportation facilities known by the carrier to be available for passenger service at the points on the route affected by the proposed discontinuance or reduction in service; and
 - (h) Any additional evidence or legal argument the carrier believes to be relevant to the petition.

49 CFR Part 1169.7

1169.7 Rebuttal.

- (a) Within 20 days after the petition is filed with the Commission, interested persons may file objections to the petition, and must send a copy of these objections to the carrier. Within 15 days after the filing of any objection, the carrier must furnish to the Commission and to each person who has filed an objection (1) an estimate of the annual subsidy required, if any, to continue the involved service, and (2) traffic, cost, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service.

APPENDIX A
Page 3

- (b) At the same time, the carrier may file a rebuttal to the objections. Copies of any rebuttal must be sent or delivered to each person who has filed an objection at the same time as the information described in paragraph (a) of this section.

(END OF APPENDIX A)

for authority to effectively discontinue such intrastate service (49 U.S.C. § 10935(a)). 49 CFR Part 1169 requires that such ICC petition must, among other things, contain the carrier's verified statement setting forth evidence described in Appendix A to this order.

On January 20, 1983, the Commission staff (staff) sent a data request in writing to Greyhound for specific information regarding the points and routes Greyhound seeks to have deleted from its certificate (attached to staff's motion as Appendix A to Affidavit of William Well). The information sought was similar to that which must be contained in an applicant's petition to the ICC or in an objection to such a petition filed by the Commission (49 CFR Part 1169.22). The staff informed Greyhound that if it did not provide all of this information to the Commission by January 31, 1983 that the staff would immediately move for dismissal of the application without prejudice. In response to the staff's written request, Greyhound, under letter dated January 28, 1983, furnished only the following information:

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Therefore, IT IS ORDERED that:

1. The motion of the staff filed February 2, 1983 requesting that A.83-01-17 be dismissed without prejudice is granted.
2. A.83-01-17 is dismissed without prejudice to the refiling of the application.

This order is effective today.

Dated FEB 16 1983 at San Francisco, California.

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