

Decision 83 03 040 MAR 16 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of THE BUS THAT GOES IN CIRCLES,)
INC., a corporation, for authority)
to transport passengers between)
Palm City, Imperial Beach, Coronado,)
the North Island Naval Air Station,)
and San Diego, all points in)
California.)

Application 82-06-50
(Filed June 21, 1982)

ORDER OF DISMISSAL

Applicant The Bus That Goes In Circles, Inc. seeks an extension of its existing passenger stage authority for four new scheduled point-to-point fixed routes serving Palm City (a part of San Diego), Imperial Beach, Coronado, the North Island Naval Air Station, and central San Diego. Applicant's present passenger stage service is authorized by Decision (D.) 91755 issued May 6, 1980 (PSC-1107).

This application parallels in all relevant aspects the facts upon which we based our decision in D.82-09-040 (rehearing denied December 22, 1982 by D.82-12-102) involving the application of Cal Coast Charter, Inc. In that decision we concluded that where municipal corporations exercise jurisdiction over a proposed bus system, the system thereby becomes a public system over which we have jurisdiction only if a specific statute grants us such authority. ✓

What exists here is a dispute between Strand Express Joint Powers Agency (Strand), on the one hand, and the City of San Diego, on the other. Strand, composed of representatives of the Cities of Coronado and Imperial Beach, is attempting to ✓

provide passenger stage service for its residents which goes into the City of San Diego. The City of San Diego objects. Such activities are specifically addressed by the California Constitution at Article XI, Section 9(a), which permits a municipal corporation to "...establish, purchase, and operate...transportation. . . ." But such service is restricted by the second sentence of that section which states: "It may furnish those services outside its boundaries, except within another municipal corporation which furnishes the same service and does not consent." That is exactly the nature of this dispute. Such a dispute cannot be resolved by the Public Utilities Commission. We have no jurisdiction to hear it where there is no specific statute granting us such authority and where the municipal entities involved possess and are exercising jurisdiction over the particular passenger stage routes in question.

Findings of Fact

1. Strand has entered into a contract with The Bus That Goes In Circles, Inc. for the services described in Application (A.) 82-06-50.
2. The City of San Diego opposes the implementation of portions of that contract which permit the contractor to enter certain parts of the City of San Diego.
3. Strand and/or the City of San Diego possess and have exercised jurisdiction over the routes described in this application.
4. This jurisdictional dispute is between municipal entities.

Conclusions of Law

1. As a result of the municipal entities' exercise of jurisdiction, the proposed routes of The Bus That Goes In Circles, Inc. constitute a municipal system.

2. No specific statute exists which would give the Commission jurisdiction over this system.

3. No specific statute exists which would give the Commission jurisdiction over the dispute arising between Strand and the City of San Diego.

4. Because there is no jurisdiction, this order should be effective on the date it is signed.

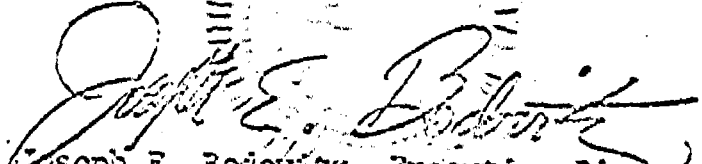
IT IS ORDERED that A.82-06-50 is dismissed for lack of Commission jurisdiction.

This order is effective today.

Dated MAR 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