

ORIGINAL

Decision 83 03 042 MAR 16 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of GOLDFIELD STAGE AND COMPANY )  
for a certificate to operate as )  
a Class "B" charter party carrier )  
of passengers in Chula Vista, )  
California. )

Application 82-09-46  
(Filed September 29, 1982)

Kathryn E. Muir, Attorney at Law,  
for applicant.

O P I N I O N

Applicant Goldfield Stage and Company, a California corporation, seeks a Class B certificate of public convenience and necessity to operate as a charter-party carrier of passengers from a service area with a 40-mile radius from its home terminal at 1130 Fifth Avenue, Chula Vista.

Notice of the filing of this application appeared in the Daily Transportation Calendar on October 1, 1982. Three Class A charter-party carriers, Sundance Stagelines, Inc. (Sundance), Goodall's Charter Bus Service, Inc. (Goodall's), and Greyhound Lines, Inc. (Greyhound), filed timely protests and requests for hearing. A hearing was set in Los Angeles on November 29, 1982 before Administrative Law Judge (ALJ) Levander. By letter dated November 23, 1982, Greyhound withdrew its protest.

Since Class A charter-party carriers holding statewide operating authority filed protests in compliance with Article 2.5 of the Rules of Practice and Procedure (Rules), Public Utilities (PU) Code Section 5375.1 requires a hearing<sup>1/</sup> prior to granting a certificate. Absent those protests, this application would have been processed without hearing.

At the time hearing dates were being discussed, Goodall's president asked the ALJ to delay the hearings until January 1983. The ALJ would not delay the hearing until January without applicant's agreement, which was not given. Goodall's president informed the ALJ that he could not attend a hearing later in the week of November 29, 1982 or in the following week. The hearing was set nearly two months after notice of the filing appeared on calendar and nearly five weeks after October 25, 1982, the date the Commission docketed the protests filed by Goodall's and Sundance.

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<sup>1/</sup> "5375.1. Notwithstanding the provisions of Section 5375, if the applicant desires to operate in a territory already served by the holder of a certificate, the commission shall hold a hearing before granting the certificate. The commission shall not grant a certificate to such an applicant unless it can be shown that the existing charter-party carrier of passengers serving the territory is not providing services which are satisfactory to the commission and adequate for the public. In no event shall the commission issue more certificates than public convenience and necessity require and the commission shall place any restrictions upon such certificates as may reasonably be necessary to protect any existing charter-party carrier of passengers."

Those protestants alleged that they would produce evidence to show that the service area is presently served by existing carriers and that there is no need for the additional service. Sundance also alleged that it was impossible to obtain and review the application.<sup>2/</sup>

Rule 52 of the Rules requires 10-day notice of hearing unless public necessity requires hearing at an earlier date. That notice requirement was met.

Goodall's and Sundance had ample time to prepare for the hearing. Neither Goodall's nor Sundance notified the Commission that they were withdrawing their protests or requests for hearing. Neither appeared at the hearing.

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<sup>2/</sup> On November 17, 1982 the ALJ directed applicant to immediately serve a copy of its application on any protestant not already served with a copy. In addition, copies of the application are available for inspection (or reproduction) at the Commission's Los Angeles and San Francisco offices.

Applicant's Evidence

Applicant's president and secretary, Craig Woods, and its vice president and chief financial officer, Larry Laxson, have extensive experience driving school buses and each has taught driver training to bus drivers. Woods is a bus driver and Laxson is the bus driver supervisor for the Sweetwater Union High School District (Sweetwater). Periodically they receive requests for chartering buses from Sweetwater or from charter-party buses serving the Chula Vista area for special events. The inquiries involve bus charters, room reservations, and other arrangements for weekend ski trips and trips to other locations. Woods and Laxson set up a tour company to arrange for lodgings and chartering buses. In chartering buses they encountered the following types of problems:

- a. Charter-party carriers frequently did not have buses available for charter.
- b. Existing charter rates were too expensive.
- c. Some of the buses they chartered broke down due to poor maintenance.
- d. Some chartered buses were dispatched with dirty interiors and/or with torn seats.

Woods worked as a bus driver for a charter-party carrier to transport tour groups on skiing trips because members of the group were dissatisfied with the driving habits of the company's regular driver.

Exhibit 1 consists of six declarations, made under penalty of perjury, signed by two other Sweetwater bus drivers, band directors for two high schools, a member of the Cabrillo Lanes 200 Fun Club of Chula Vista, and the president of a ski club. The declarants state that (a) they have tried on numerous

occasions to arrange charter bus transportation for members of their groups or clients; (b) they contacted other companies, including Greyhound, Sundance, and Goodall's, and found it difficult to obtain a bus to charter from those companies during peak seasons; and (c) there is public convenience for certifying applicant to provide adequate, reasonably priced charter bus service to San Diego residents. Two declarations state the prices charged by other charter-party bus companies are substantially higher than those proposed by applicant. Ski club members were dissatisfied with the charter-party bus service provided by another carrier.

John W. Hartley owns a charter-party carrier, Hot Dogger Tours, and a passenger stage corporation. He testified that he receives requests for charter service in San Diego County. Since his company is not authorized to pick up charter-party groups in the San Diego area, he contacts carriers within applicant's proposed service area to arrange for charters. He frequently is not able to charter buses on weekends. He testified that companies holding both charter and passenger stage authorities frequently pull equipment off of charter-party work on weekends to meet heavy passenger stage demands.

Victoria Rossi testified that she periodically attempted to contact various bus companies serving in applicant's proposed service area to charter buses. She found those carriers contacted were unresponsive to her requests. Bus company personnel did

not return her calls, stated that buses were unavailable on particular dates, or stated that buses are difficult to obtain during holiday periods.

Applicant owns a 1965 MCI 39-passenger bus. Applicant proposes to use other companies for major engine work and for brake and air line maintenance. Applicant's owners propose to do other maintenance and cleaning work themselves. Applicant's proposed rates of \$1.65 per mile are lower than the rates of other carriers operating in its proposed service area. Applicant plans to obtain a special pupil activity bus permit. The California Highway Patrol has more stringent requirements for that permit than for charter-party buses.

As of August 21, 1982, applicant's assets totaled \$35,425, including \$30,000 for motor vehicle equipment. Its outstanding liabilities of \$3,600 include \$1,200 due on the motor vehicle equipment. Applicant estimates (a) revenues of \$98,942, including \$50,000 for chartering its bus and \$48,942 paid for other tour activities; and (b) expenses of \$94,112, including \$72,340 for rental of additional buses and for tour group lodgings.

Findings of Fact

1. Applicant has the fitness, equipment, and financial resources to perform the proposed service.
2. Goodall's and Sundance failed to appear at a hearing held at their request.
3. Other carriers are not adequately meeting requirements for charter-party service within applicant's proposed service area.
4. Applicant has demonstrated public convenience and necessity for the proposed service.

5. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 1130 Fifth Avenue, Chula Vista.

6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity require that the requested authority be issued.
2. Hearing notice requirements were met.
3. The following order should be effective on the date of signature because there is a public need for the proposed service.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, to be renewed each year, is granted to Goldfield Stage and Company authorizing it to operate as a Class B charter-party carrier of passengers, as defined in PU Code Section 5383, from a service area with a radius of 40 air miles from applicant's home terminal at 1130 Fifth Avenue, Chula Vista.

2. Applicant shall:

- a. Obtain California Highway Patrol (CHP) clearance for each vehicle to be used in this Class B charter-party operation.
- b. Notify the Commission and CHP of any addition or deletion of vehicle(s) used in the service prior to use.
- c. Establish the authorized service within 360 days after this order is effective.

3. The Passenger Operations Branch will issue the annual renewable certificate on Form PE-695 as authorized by Resolution PE-303 when it receives CHP clearances and evidence of liability protection in compliance with General Order Series 115.

4. In providing service under the certificate, applicant shall comply with General Orders Series 98 and 115 and the CHP safety rules.

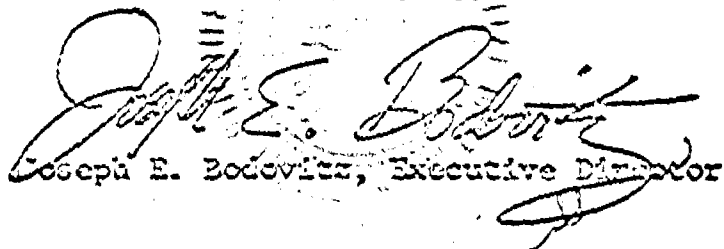
5. This certificate does not authorize the holder to conduct any operations on the property of or into any airport unless such operation is authorized by the airport authority involved.

This order 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