

ORIGINAL

Decision No. 88575

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of MELVIN COMBS dba )  
MELVIN'S CHARTER SERVICE for a )  
Class "B" certificate to operate )  
as a charter-party carrier of )  
passengers, Fresno (TCP-50-B) )

Application No. 57182  
(Filed March 30, 1977)

ORDER MODIFYING DECISION NO. 88196  
AND DENYING REHEARING

Petitions for rehearing of Decision No. 88196 have been filed by Greyhound Lines, Inc.; American Buslines/Continental Trailways, Inc.; and by All West Tours, Falcon Charter Service, Franciscan Lines, Inc., Gray Line Scenic Tours, Inc., Peninsula Charter Lines, Inc., Scenic Highway Tours, Inc., Sequoia Stages, and Joanne Smith. The Commission has considered each and every allegation in said petitions and is of the opinion that good cause for granting rehearing has not been shown and that rehearing should be denied. However, the Commission believes that in order to clarify certain areas of ambiguity which were raised by the petitions for rehearing, Decision No. 88196 requires some modification. The following discussion, additional findings, and conclusions are intended to remove those areas of ambiguity.

The applicant has been granted a Class B Charter Party Certificate and his operations pursuant to that authority cannot fully compete with Class A charter party carriers. For example, the Class A carrier can pick up charter parties in a range beyond a 40-mile radius and truly conduct a statewide service that can avail itself of charter backhauls. The applicant herein could not carry a charter group to Los Angeles and from Los Angeles pick up a different group destined for Fresno. Without backhaul flexibility it is difficult to offer the same rates and operating characteristics.

Unless the applicant someday acquires a Class A certificate,<sup>\*/</sup> he will be unable to pose a full and direct competitive threat to the operations of the protestants (all Class A charter operators).

As we noted in Decision No. 88196, the applicant proposed to use a 1959 vintage bus which will not attract the same potential charter groups as the more modern equipment of the protestants. We are of the opinion that it is desirable to encourage the public to avail itself of energy efficient transportation. The applicant's relatively old equipment, and anticipated attendant rates, may attract charter groups that would otherwise use private autos, and we think it is in the public interest to reasonably encourage energy efficient transportation for California through our regulatory policy. We are, however, of the opinion that it is reasonable to restrict the applicant to a maximum of five buses until such time as he can demonstrate that the public convenience and necessity in his area of operations would be better served by removing the restriction.

The "petition for rehearing" filed on behalf of All West Tours, Falcon, et al. cannot properly be a petition for rehearing because those parties did not participate in this proceeding. However, we have reviewed and considered it in the context of an amicus pleading.

#### Additional Findings

1. The Class B charter party authority requested by the applicant will not pose direct competition to the operations of the protestant Class A charter party carriers.
2. The service proposed by the applicant may reasonably result in the public having available an additional option of energy efficient group transportation.
3. The service and operation proposed by the applicant is of a substantially different nature than that offered by the protestants, in that older less desirable

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<sup>\*/</sup> Under present statutory limitations, no new Class A authority can be granted by the Commission. Persons desiring such authority must purchase it conditioned upon Commission approval. (Public Utilities Code Sections 5371.1, 5371.2, 5377.1, 5383.)

equipment will be used (with the probability of resulting lower rates).

Conclusions:

1. Applicant's proposed service is substantially different from that performed by existing charter party carriers serving the territory and the Commission concludes that the latter service is not satisfactory or adequate for the public.

2. Applicant should be restricted to operating a maximum of five buses until such time as he can demonstrate that the public convenience and necessity in his area of operations would be better served by removing this restriction.

IT IS ORDERED that:

1. Applicant's Class B Charter-Party Carrier Certificate, granted in D.88196, is limited to the operation of a maximum of five buses.

2. The petitions for rehearing of Decision No. 38196 are denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 7th day of MARCH, 1978.

*I would grant rehearing,  
William Sycouse Jr*

*I dissent  
Vernon L. Sturgeon*

Robert Bateman  
President

~~Vernon L. Sturgeon~~  
Richard P. Howell  
Clair J. Daniel  
Commissioners