

JUL 17 1979

ORIGINAL

Decision No. 90557

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of WILLIAM H. HUNT, doing
business as HUNT TRANSPORTATION, for
a class "B" certificate to operate as
a charter party carrier of passengers,
Buena Park. (TCP 61-B)

Application No. 58044
(Filed May 3, 1978)

Application of BRENT LEONARD HELLBUSCH,
an individual dba TRADEWIND CHARTERS,
of Huntington Beach, California, for a
Class "B" certificate to operate as a
charter-party carrier of passengers.
(TCP-64-B)

Application No. 58319
(Filed August 25, 1978)

L. R. Herrst, Attorney at Law, for Hunt Transportation;
Brent L. Hellbusch, for Tradewind Charters; and
Stuare Allen Messnick, for Co-Ordinators Sightseeing
Tours; applicants.

Knapp, Stevens, Grossman & Marsh, by Warren N. Grossman,
Attorney at Law, for The Gray Line Tours Company and
Pacific Western Stage; James H. Lyons, Attorney at
Law, for Airport Service, Inc. and Orange Coast
Sightseeing Company; Robert Fawcett, for Roberts
Holiday Lines, Inc. and American Pacific Stage Company;
Russell, Schureman & Hancock, by R. Y. Schureman,
Attorney at Law, for American Buslines, Inc. and
Trailways, Inc; and Ernest R. Stent, Attorney at Law,
for Greyhound Lines, Inc.; protestants.
William Austin, for the Commission staff.

O P I N I O N

The applications were consolidated because they seek
operating authority in the same general area in southern California
thus involving common questions of law and fact. William H. Hunt
(Hunt) seeks authority to operate as a Class B charter-party carrier
of passengers from a service area within a radius of 40 air miles of

Buena Park, and Brent Leonard Hellbusch (Hellbusch) seeks a Class B charter-party carrier of passengers certificate to operate within an area encompassed within a 40-air mile radius of Huntington Beach.

Protests were filed by The Gray Line Tours Company, American Buslines, Inc., Trailways, Inc., Airport Service Inc., Orange Coast Sightseeing Company, Robert Holiday Lines, Inc., Funbus Transportation, Greyhound Lines, Inc., and Hunt Transportation.

After due notice, public hearings were held on the consolidated applications in Los Angeles on January 22, 23, and 24, 1979, before Administrative Law Judge Bernard A. Peeters. The matter was conditionally submitted on the latter date to permit the parties to attempt to work out some stipulations whereby it would be possible for the protestants to withdraw their respective protests. If, however, such stipulations could not be worked out, then the matter would stand submitted upon the filing of concurrent briefs due twenty days after the filing of the last transcript. The matter was submitted on February 14, 1979 upon receipt of stipulations and letters of withdrawal by the protestants.

The Evidence

Hunt's case was put on through testimony from himself and his wife and through the introduction of four exhibits into evidence. The evidence shows that Hunt's base of operation will be at 7771 Gardena Drive in Buena Park. Hunt presently operates a home-to-work commuter bus service with five buses. It is alleged that Hunt has had numerous inquiries and invitations to haul charter groups. Since Hunt cannot conduct a full-time charter business he

stated that he will conduct charter runs on a limited basis consistent with availability of equipment. It is emphasized that Hunt will meet his commuter run obligations first. It is further alleged that by conducting the charter runs as an adjunct to the commuter runs, the commuter operation itself will be fortified, and even allow Hunt to continue running during temporary periods of greatly reduced commuter traffic. Hunt stated that if he is granted charter authority his operations will be marketed in such a way as to minimize interference with present operators; and that he will not actively seek customers of other operators but will rely on referrals. He stated that his present commuter operations are profitable, and that of the five buses utilized in that service, one is a standby which would be available for full-time charter service and the other four would be available for weekend charters.

On February 12, 1979, the attorney for Hunt advised the Administrative Law Judge by letter that an accord had been reached with the protestants whereby they would withdraw their protests on the condition that Hunt's permit be limited as follows: (1) Operations are to be conducted within a 20-air mile radius of Buena Park rather than the 40-air mile radius; (2) the city of Los Angeles would be excluded from the service area; (3) the city of Anaheim would be excluded from the service area; (4) no service would be provided to or from airports; (5) charter operations would be conducted with six identified buses; and (6) the Class B charter-party carrier of passengers certificate could not be transferred to another party outside of Hunt's immediate family. By letters dated February 6, 8, 13, and 14, 1979, the attorneys for the

protestants advised the Administrative Law Judge that they would withdraw their protests to Hunt's application if the proposed restrictions are incorporated into any authority issued to Hunt. Said proposal and letters from protestants' attorneys will be grouped together and received as one exhibit, identified as No. 12 and received on a late-filed basis.

Hellbusch's case was presented through his testimony and the testimony of two witnesses and the introduction of two exhibits into evidence. His evidence shows that he is presently operating a home-to-work commuter service with three buses, two of which are owned and the third one being operated under a lease. It is the applicant's position that the granting of a Class B charter-party carrier of passengers certificate to him would further serve the public in that under such authority he would be able to more efficiently utilize his present equipment by the ability to handle charter operations during the periods that the buses are idle from the commute operations and on weekends. Such utilization would accrue to the benefit of the commuters in that the added revenues would enhance the commuter operations relieving the requirement for an immediate rate increase. The evidence shows that Hellbusch has received numerous requests from local agencies for short charter trips but has had to refuse these because of lack of proper authority to operate.

After the hearing Hellbusch filed a document dated February 1, 1979, (received as late-filed Exhibit 13) wherein he asks that a certificate be issued to him subject to the following limitations as agreed upon by himself and the protestants in the application: (1) The radius of authority for picking up passengers shall be limited to a 15-air mile radius originating from 6241 Winslow Drive, Huntington Beach; (2) no pickup shall be made in the cities of Anaheim and Buena Park; (3) no service will be provided to or from any airport; (4) the total number of buses to be used in the charter

operation will be limited to three which will be registered with the Commission; and (5) the Class B certificate, if issued, shall not be transferred to anyone except a corporation formed and owned by Hellbusch.

Findings of Fact

1. Hunt presently operates a home-to-work commuter service under authority granted in D.88159 dated November 29, 1977 in A.57059, as amended by D.89735 dated December 12, 1978 in A.57781; and a general freight service conducted under authority granted as a radial highway common carrier in File No. T-121573.

2. Hunt has received numerous requests for charter-party service.

3. Charter-party authority would provide for more efficient use of Hunt's bus equipment through utilization during the periods when not involved in the home-to-work service and on weekends.

4. Hunt has the financial ability, experience, and equipment to undertake and implement the proposed service.

5. Hellbusch presently operates as a passenger stage corporation under File No. PSC 1021 which authority was granted in D.87660 dated July 26, 1977 in A.57114.

6. Hellbusch has the financial ability, experience, and equipment to undertake and implement the proposed service.

7. Public convenience and necessity have been demonstrated for the proposed service.

8. The protestant charter-party carriers do not or will not provide the type of charter-party service which is proposed by the applicants.

9. The protestants have withdrawn their protests to both applications.

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

11. Since all protests have been withdrawn and there is an immediate need for the service proposed by the applicants, the following order should be effective the date of signature.

Conclusion of Law

A certificate of public convenience and necessity to operate as a Class B charter-party carrier of passengers should be granted to Hunt and to Hellbusch as set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to William H. Hunt, dba Hunt Transportation, authorizing him to operate as a charter-party carrier of passengers as defined in Sections 5371.2 and 5383 of the Public Utilities Code from a service area encompassed within a 20-air mile radius of 7771 Gardena Drive, Buena Park, the home terminal, subject to the following conditions:

- a. The cities of Los Angeles and Anaheim are excluded from the 20-air mile radius of the service area;
- b. No airport transfers, to or from airports, shall be conducted;
- c. Charter service shall be performed with no more than six buses which shall be registered with the Commission; and
- d. The Class B charter-party carrier of passengers certificate shall not be sold or transferred to any party outside of William H. Hunt's immediate family.

Any such sale or transfer to a party outside of William H. Hunt's immediate family shall be null and void and this authority shall automatically lapse upon such occurrence.

2. A certificate of public convenience and necessity is granted to Brent L. Hellbusch, dba Tradewind Charters, authorizing him to operate as a charter-party carrier of passengers as defined in Sections 5371.2 and 5383 of the Public Utilities Code from a service area encompassed within a 15-air mile radius of 6241 Winslow Drive, Huntington Beach, subject to the following conditions:

- a. No pickup shall be made in the cities of Anaheim and Buena Park;
- b. No airport transfers shall be conducted;
- c. Charter service shall be performed with no more than three buses which shall be registered with the Commission; and
- d. The authority granted herein shall not be transferred to anyone except a corporation formed and owned by Brent L. Hellbusch.

Any such sale or transfer to a party other than a corporation formed and owned by Brent L. Hellbusch shall be null and void and this authority shall automatically lapse upon such occurrence.

3. The authorities granted to William H. Hunt and Brent L. Hellbusch are subject to an annual renewal fee pursuant to Section 5373 of the Public Utilities Code.

4. William H. Hunt and Brent L. Hellbusch will be required, among other things, to comply with the rules and other regulations of the Commission's General Order No. 98-Series and the insurance requirements of the Commission's General Order No. 115-Series.

5. William H. Hunt and Brent L. Hellbusch shall comply with the regulations promulgated by the California Highway Patrol with respect to safety of operations.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17th
day of JULY, 1979.

John E. Burns
President
William L. Sturgeon
Richard W. Coule
Clare J. D'Arcy
Terrence J. Quinn
Commissioners