

Decision No. 90936 OCT 23 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ORANGE COAST SIGHTSEEING COMPANY, a corporation, for authority to establish a sightseeing service between its Buena Park and Anaheim Service Areas, on the one hand, and the Terminal of Harbor Carriers, Long Beach, on the other hand.

Application No. 58410
(Filed October 16, 1978)

Application of ORANGE COAST SIGHTSEEING COMPANY, a corporation, for authority to extend its Buena Park and Anaheim Service Areas.

Application No. 58411
(Filed October 16, 1978)

Application of ORANGE COAST SIGHTSEEING COMPANY, a corporation, for authority to establish a tour to Universal City Studios excluding NBC Studios.

Application No. 58412
(Filed October 16, 1978)

James H. Lyons, Attorney at Law,
for applicant.

Knapp, Crossman & Marsh, by
Warren H. Grossman, Attorney
at Law, for The Gray Line Tours
Company, protestant.

Thomas P. Hunt, for the Commission
staff.

O P I N I O N

Orange Coast Sightseeing Company (Orange Coast)^{1/} is a passenger stage corporation based in Anaheim, Orange County. It operates under authority of the Commission as a sightseeing company between various points in Orange County and points of interest in Orange and Los Angeles counties as set forth in D.69671 (1965), as amended by later decisions. By these applications it seeks authority to expand certain services, as described below, from areas in the vicinity of Anaheim and Buena Park in north-central Orange County.^{2/}

The Gray Line Tours Company (Gray Line) protests these applications because it assertedly provides substantially the same services as those proposed. It is Gray Line's position that it developed the markets involved over a period of time at substantial expense; that Orange Coast's proposals would not create any new markets; that Orange Coast's vehicles would merely be added to those already operated by Gray Line to haul substantially the same total number of passengers between the same places; and that the end result would be higher costs for both operators. Gray Line stipulates that Orange Coast has experience in operating a sightseeing company and has the necessary insurance.

Public hearing was held on a consolidated record at Los Angeles on March 13, 14, 28, and 29, 1979 before Administrative Law Judge Norman Haley. Eighteen witnesses testified and 28 exhibits were received. The matters were submitted May 4, 1979, the due date of letter briefs.

^{1/} Orange Coast is a subsidiary of Airport Service, Inc., which is a subsidiary of Chromalloy American Corporation.

^{2/} No additional service is proposed from applicant's Newport Beach-Santa Ana-Costa Mesa service areas in southern Orange County.

Presentation of Orange Coast

Evidence on behalf of Orange Coast was presented through its president and 14 representatives of hotels, motels, and one camper park in central Orange County.^{3/}

In A.58410 Orange Coast seeks to add sightseeing service between the Anaheim-Buena Park area and the Santa Catalina Island passenger vessel terminal in the city of Long Beach. Applicant would operate over its present route to the Queen Mary and Marineland. At the foot of the Long Beach Freeway a deviation would be made to the Catalina dock. The bus would leave the service area at 8:00 a.m. and return approximately 6:45 p.m. to 7:00 p.m. Adult fares would be \$7.50, and for children ages 5 through 11 the fare would be \$3.75.

In A.58411 Orange Coast would enlarge its present Anaheim-Buena Park service areas to include additional areas within those cities, as well as adjacent areas in the cities of Fullerton, Orange, Garden Grove, and Stanton, and to provide boundaries for combination of the present and proposed service

3/ The witnesses called by Orange Coast and the firms they represent were: (1) Donald W. Boyles, president of Orange Coast and Airport Service, Inc., Anaheim; (2) Sean Gaffney, Mariner Holiday Inns, Fullerton; (3) Larry Lamkins, Griswold Inn, Fullerton; (4) Eleanor Sherry, Sandman Motel, Anaheim; (5) Judy Hasko, Stadium Travelodge, Anaheim; (6) Beverly Loges, Rodeway Inn, Orange; (7) Miranda Chua, Akua Motel, Anaheim; (8) Pat Ogden, KOA Kampground, Anaheim; (9) Brian Dahn, Penny Sleeper Inn, Irvine; (10) Jim Lennartson, R. A. Mann, Inc. (Park Hotel), Anaheim; (11) Bill O'Connell, Stovall Motor Hotels, Anaheim; (12) Mario Dalessi, Jolly Roger Inn, Anaheim; (13) Donald Zappia, Desert Inn Motel, Anaheim; (14) Mike Parish, Sheraton-Anaheim Hotel, Anaheim; and (15) Bhikhu Patel, Ivanhoe Motel, Anaheim.

area. Orange Coast's Anaheim-Buena Park service area was enlarged once in 1969. Since that time the general area assertedly has been a fast-growing tourist and convention community with additional hotel and motel facilities, both in and beyond the defined service area.

In A.58412 Orange Coast proposes to conduct a tour from its enlarged Anaheim-Buena Park service area direct to Universal City Studios (Universal) departing in the afternoon at 12:30 p.m. and returning approximately six hours later before the dinner hour. This would be in addition to the two current tours that leave at 9:30 a.m. and 11:00 a.m. to Universal, which include stops at National Broadcasting Co., Inc. (NBC) television studios in Burbank. The stops at NBC include tours conducted by NBC that take about one hour and ten minutes. The tour of Universal takes about 3-1/2 hours. The main purpose of A.58412 is to establish a third tour which would allow patrons more time at Universal by omitting NBC. Another purpose would be to avoid being at Universal during the lunch period where patrons must provide their own lunch. Proposed fares are \$7.70 for persons age 12 and over. Children ages 5 through 11 would be \$3.85. These proposed fares are less than those applicable to the current tours that include both studios.

Exhibit 1 shows that as of December 31, 1978 Orange Coast's assets were \$404,796 and shareholder's equity was \$256,170. Exhibit 2 shows that for the year 1978 operating revenue was \$795,147, operating expenses were \$767,836, and net income after income taxes was \$12,925.

According to the president, the total cost to Orange Coast for a bus and driver furnished by Airport Service, Inc. is something over \$2 per mile. This includes 41 cents per mile out-of-pocket expenses for bus operations. The 41 cents include fuel, oil, servicing, parts, tires, and insurance for damage to the buses. The total cost of something more than \$2 per mile also includes allocations of the various other operating expenses shown in Exhibit 2. Most of the allocations are made 13 percent to Orange Coast and 87 percent to Airport Service, Inc. Orange Coast has no employees of its own. The approximate cost of drivers supplied by Airport Service, Inc. on a direct cost basis is shown in Exhibit 2 under "transportation". The weighted average driver cost paid by Orange Coast during 1978 was approximately \$9.05 per hour, including overtime and fringe benefits. Pensions and retirement costs are in addition.

Exhibit 3 shows that Orange Coast has 83 buses available with seating capacities ranging from 41 through 53. Each is equipped with air-conditioning and public address systems. They do not have radios. These are vehicles leased to it by Airport Service, Inc. Additional vehicles also are available under the same arrangement when peak demands require.

Exhibit 4 is a brochure advertising tours operated by Orange Coast from (1) the Anaheim-Buena Park area and (2) the Newport Beach-Santa Ana-Costa Mesa area. Tours are available to NBC-Universal, Lion Country Safari, Marineland, Queen Mary, and Disneyland (the latter from the Newport area only).

Exhibit 5 is a list of 18 hotels and motels, which have agreements for sale of tickets of Orange Coast tours on consignment. These agents are domiciled outside of Orange Coast's present service areas, but are located within the proposed enlarged Anaheim-Buena Park service area. They report monthly the commissions allowed and remit the net amount to Orange Coast. The commission agents are in addition to agents in Orange County and elsewhere in the country that have requested tickets on a "sell-and-report" basis. Exhibit 6 lists names and addresses of hotels and motels located outside the present Anaheim-Buena Park service area which would be served in the proposed extended service area or where there would be agents if A.58411 is granted.

Exhibit 7, introduced by the president of Orange Coast, is a brochure depicting southern California sightseeing on Gray Line. Among various tours it advertises Gray Line tours to Catalina and to Universal.

The president of Orange Coast estimated that the proposed tour in A.58412 to Universal would take eight driver hours round trip. He had not made a study of driver hours that might be required for the tour to the Catalina dock. He said no additional costs for the proposed new services are anticipated for solicitation, dispatching, accounting, or other purpose.

Automatic daily pickups at the various agencies (hotels and motels) in Orange Coast's present service areas are provided in connection with existing tours. In servicing existing tours line equipment serves the dual function of picking up and providing the tours themselves, so that the passengers do not change buses. On certain pickup schedules

the same bus may originate in the Buena Park area, and after completing that pickup assignment, will proceed to the Anaheim area to continue pickups. Sometimes a single bus assigned to perform on a particular tour will pick up for only a segment of the route, and a second bus will commence making pickups at the point where the first one is filled. The average pickup distance per bus is 5 to 6 miles.

There are 60 to 70 hotels and motels in Orange Coast's present Anaheim and Buena Park service areas. In the proposed enlarged service area there would be another 18 as shown in Exhibit 5. It is proposed that one bus and driver will perform pickup service throughout the total service area beginning at 8:00 a.m. in time for the 9:00 a.m. vessel departure to Catalina. For tours from the proposed enlarged service area direct to Universal, more than one bus may be required to make pickups, in the manner explained above.

Applicant's president stated that total passengers carried on certificated operations in 1978 were 98,631. Of these 60,610 were carried on its NBC-Universal tours (about 80 percent). Of these 3,188 were from the Newport Beach-Santa Ana-Costa Mesa service area. The total number of passengers out of that area was 5,542. No charter work was performed in 1978. No projections of patronage were made in connection with applicant's proposed additional services. It was estimated that service to the Catalina dock would require one bus, and the additional tour to Universal would require two buses. Load factors on the proposed Catalina and Universal tours are anticipated to be sufficient to support a minimum of one bus a day. It is hoped that load factor on the proposed Universal tour will be around 100 percent.

The testimony of the 14 representatives of hotels, motels, etc. (footnote 3 above) can be summarized as follows. Each supports the proposed additional tours. Some are located inside the present service areas of Orange Coast or Gray Line, or both, and others are outside of one or the other of those service areas. Those located outside of Orange Coast's Anaheim-Buena Park service area support expansion of that area to include them. Tickets are sold to Catalina (Gray Line), Universal (Gray Line), and NBC-Universal (Orange Coast), among various tours of these and other carriers. Gray Line picks up at a number of the properties represented, because they are within the portion of applicant's sought extended service area which are in Gray Line's present service area.

Some patrons assertedly express a preference for Gray Line or Orange Coast, or ask about service on one of them. Brochures of both carriers are displayed at most hotels and motels. Some hotels and motels sell vacation packages which include lodging, transportation, and tickets to places of entertainment. These package vacations usually are arranged before the patrons leave home.

A number of the hotels and motels located outside of the service areas of Gray Line and Orange Coast operate shuttle vehicles to transport patrons directly to and from various attractions, and also to and from bus stop hotels of those carriers. However, large tour groups cannot readily be accommodated with existing station wagons and shuttle buses that carry only from 6 to 16 passengers per trip. Some of Gray Line's patrons are located in hotels which are within walking distance of its pickup points. Gray Line will pick up at unscheduled points in its service area if there are six or more patrons.

Some of Orange Coast's witnesses expressed dissatisfaction with Gray Line's service. However, on cross-examination the bases for dissatisfaction were shown mostly to be the result of misunderstandings and misconceptions. None of Orange Coast's supporting witnesses demonstrated any substantial deficiency with Gray Line's operations, and all admitted currently using Gray Line for their Universal and Catalina tour patrons.

A number of the witnesses stated that many guests of hotels and motels desire an afternoon tour, such as Orange Coast's proposed tour to Universal. Generally, there is a turnover of guests around 11:00 a.m. to 12:00 noon. Some of these desire afternoon tours. It was explained that some guests sleep late, swim, and otherwise enjoy the facilities in the morning. Assertedly, these and others who check in late in the morning miss the opportunity to take most of the tours scheduled for the day. It was testified that after the morning tours have gone, wives and children frequently have nothing to do in the afternoon and request a tour which will bring them back in time for dinner. It was asserted that some elderly people and ladies with small children feel an all-day tour is too much for them. It was stated that the shorter tour to Universal, excluding NBC, also would have the advantage of being less expensive than Orange Coast's present combination tours to both studios.

Presentation of Gray Line

Gray Line called five witnesses representing it and other transportation companies.^{4/}

The president of Orange Coast (called by Gray Line) said he would not agree to a restriction in connection with A.58412 that the proposed tour to Universal must leave at 12:30 p.m. He explained that he has no plans for changing the proposed departure time to approximately 11:00 a.m. (Gray Line's departure time) but if there was demand for such a tour, it would be his intention to try and fill it. He said he had not had any negotiations with Harbor Carriers, Inc. relative to the proposed Catalina tour in A.58410. He said the proposed service may involve delivering passengers to the dock to be ticketed there for the vessel portion of the trip.

The executive vice president and general manager of Gray Line explained the business activities of his company. The company is a certificated passenger stage operator specializing in scenic sightseeing tours. Operations have been conducted since 1922. It also holds a Class "A" charter-party permit from the Commission. Operations are conducted throughout southern California, including Los Angeles, Orange, and San Diego counties and Palm Springs. Headquarters are in

^{4/} The witness called by Gray Line and the firms they represent were: (1) Donald W. Boyles, president of Orange Coast and Airport Service, Inc., Anaheim (adverse witness); (2) Gerald Ballinger, executive vice president and general manager of Gray Line, Los Angeles; (3) Tim Mazur, general manager of Harbor Carriers, Inc., Long Beach, and H-Tourist, Inc., San Pedro; (4) Donald R. McCammack, vice president-finance of Gray Line, Los Angeles; and (5) Anthony D. Guion, vice president and general manager of Gray Line's Orange County Division.

Los Angeles, with additional facilities in San Diego, Palm Springs, and Orange County. Gray Line has a total of approximately 400 employees of which 200 are drivers. It has committed substantial investment of capital and buses to the Universal and Catalina tours out of Orange County. Gray Line runs both of these tours on a daily basis. Assertedly, the proposed Orange Coast tours would be virtually identical and duplicative of those presently offered by Gray Line.

Exhibit 8 is Gray Line's Los Angeles equipment roster effective February 1, 1979. There are 157 units of equipment of different types to serve the needs of the public for specialized services. All of the buses are equipped with radio communication except the transit-type vehicles. This permits constant communication with vehicles which gives the company flexibility in adjusting operations required to meet day-to-day changes. The transit-type buses primarily are used in convention shuttle and pickup services. Sometimes they are operated on tours from and to the Anaheim Hyatt House validation facility. Exhibit 9 reflects new and additional equipment that has been acquired since 1974. In 1974 the company had three buses in its Orange County Division. In 1978 it had 63.

Gray Line does not normally make pickups and deliveries in line haul buses in the manner explained by the president of Orange Coast. Gray Line designates pickup routes in Orange County, picks up passengers at hotels and motels, brings them to the central validating point, and redistributes them on buses for the tours. Transfers onto and off of line haul buses at the validation point are the only transfers passengers are required to make. This is considered to be a much more efficient means of conducting tour operations than Orange Coast proposes.

Gray Line holds authority from the Commission to serve from the Anaheim-Buena Park area to Long Beach in connection with subsequent movements by vessel to Catalina. Operations have been conducted 364 days a year since mid-1977, the only exception being New Year's Day. Gray Line has had reasonably successful results, but experiences low overall load factors. Gray Line believes very strongly there is not an adequate Catalina market to economically enable two carriers to provide service. Assertedly, Gray Line is fulfilling the present market demand.

Gray Line has held authority to serve from the Anaheim-Buena Park area to Universal since the early 1960's. Service has been provided at 8:15 a.m. and 11:00 a.m. There has been a restriction in Gray Line's certificate, that was reflected in Item 15 of its tariff, that it must go by its Third Street terminal in Los Angeles rather than directly to destination. This restriction caused an additional 2.9 miles to be traversed. Gray Line very recently received authority to eliminate the Third Street deviation (D.90844 (1979) in A.58276). ✓

The executive vice president and general manager contends that Orange Coast's proposal in A.58412 to serve Universal direct with a 12:30 p.m. departure would not create or develop a new market, but, in fact, would be a method to divert a market that has been established by Gray Line for many years. He believes very strongly that there would be a very large diversion from Gray Line to Orange Coast and that Gray Line would suffer substantial economic loss if the sought authority is granted. He is apprehensive that Orange Coast would not adhere to its proposed departure at

12:30 p.m. and might move that departure close to Gray Line's 11:00 a.m. schedule, if authorized. He believes that Gray Line has fulfilled the public need as that market has grown and that there is no need for an additional carrier to be certificated for a direct tour to Universal.

The executive vice president and general manager explained that Gray Line is opposed to Orange Coast's proposal to enlarge its Anaheim-Buena Park service area in connection with the proposed tours because Gray Line has spent many years developing that market and feels it has served the public need. He believes that the proposal in A.58411 also is a move by Orange Coast to draw away passenger traffic that Gray Line has developed over the years at great expense. On cross-examination he said he would have no valid objection to the proposed service area expansion in connection with regular tours Orange Coast is now operating.

The general manager of Harbor Carriers, Inc. testified that in the winter time his company operates vessels on two round trips a day to Catalina from Long Beach with three on Fridays. In the spring, schedules are added primarily on weekends until early June when five round trips a day are operated. Since June of 1977 the vessel carrier has had an arrangement with Gray Line for movement of passengers originating in the Anaheim area to Catalina and return. The vessel schedule involved is a morning departure where Gray Line's passengers leave from Long Beach to Catalina at 9:00 a.m. and return to Long Beach at 5:45 p.m. Harbor Carriers, Inc. supplies Gray Line with rolls of tickets on consignment. No one other than Gray Line is provided blocks of tickets. Each day Harbor Carriers, Inc. allots a certain

number of seats up to the maximum which Gray Line can sell automatically. If Gray Line plans to sell in excess of that maximum number, the vessel carrier must be notified in advance to determine whether or not there is any excess vessel capacity. There are occasions when there are no additional seats over and beyond the committed number.

The general manager of Harbor Carriers, Inc. stated that if someone (including Orange Coast) brought a busload of people to the dock 30 minutes before sailing time without any prior reservation, there would be times when all of the passengers could not be accommodated on the ship. He said the vessels carry up to 700 passengers, but that there is a sliding manning scale established by the U.S. Coast Guard which requires a crew of from four to seven men depending on the number of passengers carried. He said that if 200 people have reservations, and allowing for no-shows and walk-ins, the company probably would plan to have four men in the crew. If 15 minutes before sailing time 60 people showed up, they could not all be accommodated unless an additional crew member could be found who lives sufficiently close to be able to come to work. He said that the vessel carrier would make every effort to find another crew member. He explained, however, that there could still be a problem with unexpected patronage in connection with the return movement from Catalina. If the vessel carrier was able to get the people over to the island, it might not be possible to bring them back at a specific sailing time. He said he did not think there was a day in 1978 when Harbor Carriers, Inc. did not have seats available in both directions at some time during the day, but that there were scheduled sailings

that were sold out or nearly sold out for several days in advance.

The general manager of Harbor Carriers, Inc. said the relationship his company has had with Gray Line has proven to be worthwhile. He said he would not be pleased to have the Gray Line Catalina operations jeopardized or have any passenger traffic from the Anaheim area dry up. He asserted that before Gray Line applied for the Catalina authority and developed the Orange County market, no other Orange County tour operator was willing to run the Catalina tour. He stated that he would not have any objection to working out an arrangement with Orange Coast in connection with transportation of passengers from the Anaheim area to the Long Beach terminal.

Gray Line's vice president of finance introduced and explained Exhibits 10 through 23. The witness explained that the overall purpose for the preparation and submission of these exhibits was to show (1) the expected financial impact on Gray Line, assuming various levels of passenger diversion if Orange Coast's applications are granted; (2) the increased cost of providing the services where two carriers are involved instead of one; and (3) the break-even load factor required by Orange Coast on its proposed tours.

Exhibits 10 and 11 show development of Gray Line's costs for drivers and for vehicle ownership per bus per month. In Exhibits 13, 14, and 15 the witness assumes a loss to Orange Coast of 50 percent of Gray Line's Universal passengers in the event the authority sought in A.58411 and A.58412 is granted. A total annual revenue loss of \$174,320 and a pre-tax loss of \$92,843 are estimated. The estimated annual cost to provide the Universal tour by two carriers is \$214,319, as compared to \$162,429 by one carrier, or an increase in cost per passenger of \$1.26.

Exhibits 16, 17, and 18 are constructed in a manner similar to Exhibits 13, 14, and 15, except that the witness assumes a loss to Orange Coast of 25 percent of Gray Line's Universal passengers. A total annual revenue loss of \$87,160 and pre-tax loss of \$47,754 are estimated. The estimated annual cost to provide the Universal tour by two carriers is \$213,457, as compared to \$162,429 by one carrier, or an increase in cost per passenger of \$1.24.

Exhibits 19, 20, and 21 also are constructed in a manner similar to Exhibits 13, 14, and 15, except that the witness assumes a loss to Orange Coast of 50 percent of Gray Line's Catalina passengers in the event the authority sought in A.58410 is granted. A total annual revenue loss of \$24,773 and a pre-tax loss of \$20,957 are estimated. The estimated annual cost to provide the Catalina tour by two carriers is \$69,170, as compared to \$39,310 by one carrier, or an increase in cost per passenger of \$4.22.

Exhibit 22 is Gray Line's estimate of Orange Coast's break-even load factor for the Universal tour at proposed fares and operating costs. The estimate shows that Orange Coast would need an average load of 30 passengers per trip to cover direct costs only. Exhibit 23 is a similar exhibit relating to Orange Coast's proposed Catalina tour. Exhibit 23 shows that Orange Coast would need an average load of 16 passengers per trip to cover direct costs on that tour.

The vice president and general manager of Gray Line's Orange County Division explained that his company originates 14 regularly scheduled sightseeing tours that operate out of the Hyatt House validation facility in Anaheim. Gray Line services 87 regular agents in hotels and motels on a daily

pickup route and flows that traffic through the Hyatt House validation facility in normal daily tour operations. In addition, there are special operations consisting of sight-seeing services for tour and travel organizations, local groups, and convention activities. Gray Line depends on advance reservation requests from its point-of-sale agents to give the company an indication of daily bus requirements.

Exhibit 24 is a map showing (1) Gray Line's Buena Park pickup area, (2) Gray Line's Anaheim pickup area, and (3) Orange Coast's proposed consolidated Anaheim-Buena Park service area. Orange Coast's proposed consolidated service area largely covers both of Gray Line's pickup areas, except a portion of its Buena Park pickup area. Orange Coast's proposed area also includes territory located outside of Gray Line's pickup areas. The witness was of the opinion that the latter area would represent only marginal additional production.

Exhibit 25 (Anaheim Properties) and Exhibit 26 (Buena Park Properties) list 89 hotels, motels, and other places where Gray Line currently provides regularly scheduled pickup service, and two additional locations in the Anaheim pickup area where service is provided upon request. In some instances several smaller hotels and motels located in close proximity to one another will flow traffic into major hotel properties to provide a cluster pickup, so Gray Line does not necessarily have to stop at every one of the locations listed.

Exhibit 27 is a reproduction of a driver's actual dispatch record on a form used daily by Gray Line to dispatch drivers and equipment for regularly scheduled pickup service from the Anaheim Hyatt House validation facility. It shows

approximate times of actual pickup at various locations included in particular time blocks. Pickup service is provided with a minimum of six buses. Sometimes more are required, depending on the number of reservations.

Exhibit 28 shows miles of route service and times recorded by a Gray Line senior driver during two actual runs through Orange Coast's proposed enlarged Anaheim-Buena Park service area. This was to determine whether one piece of line equipment could make necessary pickup and line haul movements in one hour, which applicant asserts could be done in time to meet the 9:00 a.m. departure of Harbor Carriers, Inc. The first page includes 30 properties which involved 22 miles and one hour and 38 minutes to cover. The next three pages include 75 properties and required 26 miles and 2 hours and 28 minutes to cover. Altogether, 105 properties were involved requiring 40 miles of route service and 4 hours and 6 minutes to cover. In a number of instances several properties were shown at one pickup time because it was determined that normally those properties would be accommodated with one pickup stop. Assertedly, the witness is aware of the geographic locations of Orange Coast's pickup agents, and also had reference to the property locations shown in Gray Line's Exhibit 28, including the routings followed in preparation of that exhibit. In addition to pickup time, it takes about 45 minutes travel time from the Anaheim-Buena Park area to the Catalina dock. The witness estimated that with one piece of line equipment, as proposed, Orange Coast would be required to commence pickup service at 4:00 a.m. instead of 8:00 a.m.

Discussion

The tourist hotel and motel facilities, sightseeing bus facilities, and major tourist attractions in the Orange County-Los Angeles County areas here involved are among the most extensive in the nation. Tourists on vacations and on business trips come from throughout the nation and from foreign countries. Many of the tourists who visit the area each year are either unfamiliar or relatively unfamiliar with locations of many of the attractions. A number of them are reticent to drive private or rental automobiles in unfamiliar, heavily congested surroundings, particularly over relatively long distances, such as are involved in these proceedings. There are parking problems and other expenses; in addition, motor vehicle fuel has been scarce and is becoming more expensive. For many tourists common carrier sightseeing bus service is the only feasible method of transportation to a relatively distant attraction. Sightseeing transportation is acquired either directly or through agents as part of package tour arrangements. Package arrangements frequently are made before the travelers leave home. In any event, travelers expect to receive good, dependable sightseeing bus service at reasonable rates.

In several recent decisions involving passenger stage sightseeing applications, we have announced our intention to deviate from past traditional tests of factors inherent in the underlying concept of public convenience and necessity (see, for example, O'Connor Limousine Service, Inc., D.90154 (1979), mimeo. pages 10 and 11). We have adopted a policy of fostering limited competition under regulation as having a beneficial effect in the public interest. The ultimate

objective of this policy is to promote good service and to hold down fares. The Commission may grant a number of certificates covering the same route or routes. We will look to the circumstances of each of the three applications to determine whether or not the public interest requires certification of that application.

Gray Line has invested substantial assets and manpower in the Anaheim-Buena Park area. The evidence is convincing that Orange Coast's proposals to enlarge its Anaheim-Buena Park service areas, and to establish an afternoon tour to Universal (direct), would not conflict substantially with operations now being conducted by Gray Line. Obviously, a direct afternoon tour via Orange Coast, sold at the same hotel and motel facilities that sell Gray Line tours, would draw some business from Gray Line's tours that commence in the morning. However, an afternoon tour by Orange Coast direct to Universal also will draw some business from its own longer and more expensive morning combination tours which include NBC as well. An afternoon tour also will attract some new traffic from patrons of hotels and motels who, because of various circumstances, do not want a tour that begins in the morning. The record is not convincing that Gray Line would lose 25 to 50 percent of its Universal business to a direct tour conducted by Orange Coast, if confined to the afternoon. Orange Coast expects to experience high load factors on two buses on its afternoon tour. Such operations would provide more flexibility for the general public, would tend to promote good service, and would tend to hold down fares. Gray Line does not believe there is a worthwhile market and does not now plan to provide service in those

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portions of Orange Coast's sought enlarged service area that are beyond Gray Line's service area, or in an afternoon tour to Universal. Orange Coast should be given an opportunity to promote and develop the additional services sought in A.58411 and A.58412.

Gray Line's protest to Orange Coast's proposed Catalina service in A.58410 can be summarized as follows: (1) after developing the common carrier passenger bus market between Orange County and the Catalina dock, average load factors of Gray Line are only sufficient to make its operation marginally profitable; (2) from a physical operating standpoint Orange Coast could not perform direct pickup at more than 90 properties (allowing for some cluster pickups), with one line bus and driver, starting at 8:00 a.m. in time for the 9:00 a.m. vessel departure from Long Beach located about 45 minutes away; and (3) Orange Coast did not demonstrate that the transportation proposed in A.58410 would be feasible from a financial standpoint.

We do not dispute Gray Line's evidence and technical assertions relative to service between Orange County and Catalina, except to say that its showing is based mostly on its own experience in the past. That experience has reflected growth.

Orange Coast and its parent, Airport Service, Inc., are large, experienced passenger common carriers based in the Anaheim area. ~~Although the record does not show exactly how the proposed Catalina service would be feasible from either an operating or financial standpoint,~~ We must conclude that applicant knows what it is doing and can develop a viable market. KN

With respect to Gray Line's contention that there is not enough available traffic, we notice that Catalina Island is a well-known tourist attraction located offshore, only a relatively short distance from the large population concentration of Orange County. Hotel and motel facilities in Orange County are extensive and continue to grow. In addition to the growing Orange County

market, tours to the island's attractions are marketed throughout the nation. Orange Coast should be given an opportunity to develop additional traffic by promotions through its own efforts and through agents and other representatives. The hotels and motels Orange Coast now serves in connection with various other tours could generate Catalina traffic. Since Orange Coast already serves those facilities with other tours, it would not be reasonable to deny it authority to offer a Catalina tour. The Orange County hotels and motels must now turn all of their Catalina business over to Gray Line. The general manager of Harbor Carriers, Inc. explained that he would not have any objection to working out an arrangement with Orange Coast in connection with transportation of passengers from the Anaheim area to the Long Beach terminal, assuming that notice relative to space requirements would be provided sufficiently in advance of the 9:00 a.m. vessel departure each morning.

In addition to generating new business, the proposed service would draw from Gray Line's Catalina service originating at the same hotels and motels. Both Orange Coast and Gray Line may experience temporary losses from their Catalina tours while markets are being further developed. However, both carriers are financially strong enough to withstand such losses. Each is authorized to conduct various other tours and their overall operations are profitable. Lastly, the public should have the flexibility of being able to select service from more than one company. This is one of the objectives in our policy of fostering limited competition in the common carrier sightseeing business.

Findings of Fact

1. Orange Coast is a passenger stage corporation engaged in performing sightseeing service between various points in Orange County and points of interest in Orange and Los Angeles counties.

2. By these applications Orange Coast seeks to enlarge its present Anaheim-Buena Park service areas to include additional areas within those cities, as well as adjacent areas in the cities of Fullerton, Orange, Garden Grove, and Stanton. It also seeks to provide an afternoon tour to Universal from the enlarged service area without the present restriction applicable to existing day-long tours that it also serve NBC. It also seeks authority to initiate service to the Catalina vessel dock in Long Beach from the enlarged service area.

3. Among other things, Gray Line is authorized to provide sightseeing service from the Anaheim-Buena Park area directly to Universal (without a stop at any other point) and also to the Catalina vessel dock in Long Beach.

4. Gray Line now is authorized to make pickups at hotels and motels in large portions of Orange Coast's sought enlarged Anaheim-Buena Park service area, as shown in Exhibit 24.

5. Gray Line does not desire to provide service in other portions of Orange Coast's sought enlarged service area, or to provide an afternoon tour to Universal. Gray Line believes that such transportation would not generate enough traffic.

6. Orange Coast did not present anticipated (pro forma) results of operation studies or any market projections for any of the services proposed in these applications.

7. We have adopted a policy of fostering limited sightseeing bus competition under regulation as having a beneficial effect in the public interest. The ultimate objective of this policy is to promote good service and to hold down fares.

8. The record shows that Orange Coast's proposals in these applications would comport with the policy stated in Finding 7.

9. Orange Coast has the ability, financial resources, insurance, and experience necessary to perform the proposed services. It can acquire additional equipment and other assistance from its parent corporation.

10. The fares proposed by Orange Coast are justified.

11. The additional tour services proposed by Orange Coast differ materially from those offered for similar areas by Gray Line with respect to scheduling and routing.

12. Orange Coast has demonstrated that public convenience and necessity require certification for the additional services proposed.

13. The additional tour services proposed by Orange Coast would take some business from Gray Line. However, the evidence does not show that the sought authorities would impair the ability of Gray Line to continue to provide service to its customers.

14. 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. A.58410 and A.58411 should be granted.

2. A.58412 should be granted, subject to the restriction that the sought half-day tour to Universal (without any other stop) commence not earlier than 12:00 noon.

3. The tours proposed by Orange Coast are sufficiently different from those offered in the same areas by protestant, Gray Line, so as to render inapplicable the competitive clause of Section 1032 of the Public Utilities Code.

Orange Coast Sightseeing Company is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. The certificate of public convenience and necessity granted to Orange Coast Sightseeing Company authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes as described in Appendix A of Decision No. 69671, as heretofore amended, is further amended by incorporating Third Revised Page 3, Second Revised Page 5, and Original Page 7, attached hereto and made a part hereof, in place of Second Revised Page 3 and First Revised Page 5, respectively.

2. In providing service pursuant to the authority granted by this order, applicant shall comply with the following service regulations. Failure to do so may result in a cancellation of the authority.

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate granted. Applicant is placed on notice that if it accepts the certificate it will be required, among other things, to comply with the safety rules of the California Highway Patrol, 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. 101-Series.

- (b) Within one hundred twenty days after the effective date of this order, applicant shall establish the authorized service and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the authorized service.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its

operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

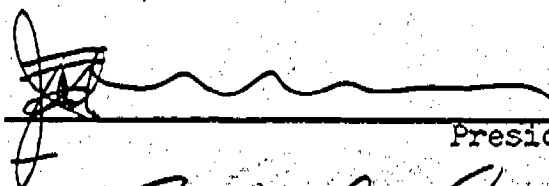
The effective date of this order shall be thirty days after the date hereof.

Dated OCT 23 1979, at San Francisco, California.

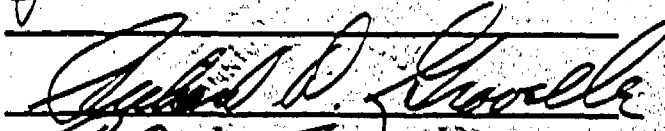
Commissioner JOHN E. BRYSON


Present but not participating.


Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.



 President







 Commissioners

SECTION 1. (Continued)

f. Tour No. 3

Service will be rendered on a year-round basis Monday through Saturday of each week. No service will be rendered on Sundays, Thanksgiving Day, Christmas Day and New Year's Day.

* g. Tour No. 3.1

Service shall commence not earlier than 12:00 Noon.

SECTION 2. SERVICE AREAS

Passengers may be picked up and discharged at any point within the following described areas, subject to local traffic regulations:

** ANAHEIM - BUENA PARK SERVICE AREA

Beginning at the intersections of Orangethorpe Avenue and Knott Street, thence south on Knott Street, east on Garden Grove Freeway (State Highway 22), north and east along the western and northern bank of the Santa Ana River, north on Imperial Highway (State Highway 90), west on Orangethorpe Avenue to the point of beginning.

Issued by California Public Utilities Commission.

* Added by Decision No. 90936, Application No. 58412

** Amended by Decision No. 90936, Application No. 58411.

SECTION 3. ROUTE DESCRIPTIONS

Tour No. 3 - NBC Studio/Universal Studios
Combination Tour

Commencing in the Anaheim - Buena Park Service Area via city streets to the Santa Ana, Golden State and Ventura Freeways to Buena Vista Street, Alameda Avenue, to NBC Television Studio, 3000 West Alameda Avenue, Burbank, thence via Alameda Avenue, Riverside Drive, Moorpark Way, Moorpark Street, Cahuenga Boulevard and Lankershim Boulevard to Universal City Studios, then returning to the service areas (points of beginning) via Lankershim Boulevard, Hollywood and Santa Ana Freeways.

* Tour No. 3.1 - Universal Studios Half-Day
Tour

Commencing in the Anaheim - Buena Park Service Area via city streets to the Santa Ana Freeway (Interstate 5), the Hollywood Freeway (U. S. Highway 101), and Lankershim Boulevard to Universal City Studios and return via the reverse route.

Tour No. 4 - Queen Mary

Commencing in the Anaheim - Buena Park Service Area, thence by city streets to the Garden Grove Freeway (State Highway 22), San Diego Freeway (Interstate 405), Long Beach Freeway (State Highway 7) to the Queen Mary located at Pier J in the City of Long Beach, and return via the reverse of the above route.

Tour No. 5 - Lion Country Safari - Half-Day Tour

Commencing in the Anaheim - Buena Park Service Area, thence Katella Avenue to the Santa Ana Freeway (Interstate 5), Laguna Canyon Freeway (State Highway 133), San Diego Freeway (Interstate 405) to Lion Country Safari, and return by reverse of the above route.

Issued by California Public Utilities Commission.

* Added by Decision No. 90936, Application No. 58412

SECTION 3. ROUTE DESCRIPTIONS

Tour No. 12 - Catalina Tour

Commencing in the Anaheim-Buena Park Service Areas, thence by city streets to the Garden Grove Freeway (State Highway 22), San Diego Freeway (Interstate 405), Long Beach Freeway (State Highway 7) to the Broadway off-ramp; thence south on Magnolia Avenue to the Queen's Way off-ramp; thence west on Queen's Way to Golden Shore Boulevard to the Long Beach terminal of Harbor Carriers at 330 Golden Shore Boulevard. Return going north on Golden Shore Boulevard to the Long Beach Freeway (State Highway 7), San Diego Freeway (Interstate 405) and the Garden Grove Freeway (State Highway 22) to the Anaheim-Buena Park area.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 90936, Application No. 58410.