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Decision No. 91254 JAN 15 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of Frank C. Miranda for a Class
"B" certificate to operate as a
Charter Party Carrier of Passengers,
Fresno. (File No. B-8.)

Application No. 59073
(Filed August 16, 1979)

Frank C. Miranda, for himself.
Anthony P. Carr, Attorney at Law, for
Greyhound Lines, Inc., protestant.
Robert E. Bouchet, for the Commission
staff.

O P I N I O N

Frank C. Miranda requests a Class B charter-party carrier of passengers certificate authorizing operations from a service area encompassing a radius of 40 air miles from Fresno.

Public hearing was held before Administrative Law Judge Daly on November 13, 1979, at San Francisco and the matter was submitted.

Applicant was employed by the city of Fresno Transit System for 20 years. During that time he was engaged as a bus driver for 14 years, as a safety instructor for 3-1/2 years, and for 3-1/2 years he was actively engaged on the management level.

If the certificate is granted, applicant proposes to purchase two 1964 39-passenger buses and one 1972 47-passenger bus.

As of July 5, 1979, applicant indicated assets in the amount of \$390,190, the bulk of which represents the \$240,000 value placed upon a 20-acre vineyard in the Fresno area. Although applicant indicates \$180,000 in accounts receivable, he also shows \$20,000 in cash. Liabilities are listed at \$212,000, but \$170,000 of that represents a small business loan that applicant has applied for, but has not as yet been acted upon.

Applicant is aware of at least eight charter-party carriers operating in the Fresno area but he assertedly does not intend to divert any established business from other carriers. He testified that he does not know how much business he will do, but he intends to obtain most of it by advertising in newspapers. Because of his prior association with the transit lines, he has assertedly received numerous requests for service. No additional evidence was presented.

Letters of protest were received from Allstate Charter Lines, Inc.; Robert Mosqueda, dba Fresno Charter Service; Orange Belt Stages; Abbey Transportation; and Greyhound Lines, Inc. (Greyhound).

The only affirmative showing was made by Greyhound and is summarized as follows:

Greyhound is certificated to operate as a Class "A" charter-party carrier of passengers. It owns and operates 4,166 buses within the State of California and operates and maintains numerous garages and service points throughout the State. During the months of August and September 1979, it transported 1,428 charter-party passengers from the Fresno service area resulting in revenues of \$27,022. Although Greyhound's revenues from all sources within the State of California are substantial, it works on a small profit margin with an operating ratio of 96 percent. Anything that reduces that margin assertedly would have an adverse financial effect.

Based upon his past experience, applicant appears well qualified to provide the proposed service. It also appears that he possesses the necessary financial ability to provide service regardless of whether the small business loan is granted or not.

There is no doubt that because of his prior transit system position, applicant has made numerous contacts that would result in requests for service and it is quite likely that this traffic, plus additional business that might be generated by newspaper advertising, could result in an economically viable operation. Although applicant did not raise the point, it is conceivable that applicant would also attract customers from the Mexican-American community of the Fresno area, as the Commission recently found in the application of Robert Mosqueda, dba Fresno Charter Service (Decision No. 90517 dated July 3, 1979, in Application No. 58360).

Although Greyhound maintains and operates extensive equipment within the Fresno area it admittedly has to move additional equipment into the area to meet seasonal needs particularly during the summer months. In addition, Greyhound has not demonstrated that the proposed operation will adversely affect Greyhound's services or financial integrity.

Although there are other competing carriers within the area there is nothing in the record to demonstrate the effect, if any, that the proposed service would have on their respective operations.

Applicant should be provided the opportunity to serve the Fresno area as a charter-party carrier; however, in keeping with the position taken by this Commission in Decision No. 90517 applicant's certificate should be limited to the operation of two buses and the origin service area limited to a 10-mile radius of Fresno until further order of the Commission. These restrictions will enable applicant to provide service without significant effect upon the existing carriers and will also eliminate the possibility of a successor conducting more extensive operations.

Findings of Fact

1. Applicant has the necessary experience, ability, fitness, and financial ability to initiate and conduct the proposed service.

2. Applicant's terminal is located at 4826 E. Balch Street, Fresno, California.

3. Public convenience and necessity require applicant's service subject to the condition that pending further order of the Commission, it be limited to the operation of a maximum of two buses and provided within an origin service area covering a 10-mile radius of Fresno.

4. Imposition of the restrictions set forth in Finding 3 are reasonably necessary to protect the existing charter-party carriers of passengers presently serving in the Fresno area, and they will confine the certificated authority granted to applicant to the limits of public convenience and necessity established in this record.

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

Conclusion of Law

The Commission concludes that the applied for operating authority should be issued.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity, to be renewed each year, shall be issued to applicant Frank C. Miranda authorizing him to operate as a Class "B" charter-party carrier of passengers, as defined in Section 5383 of the Public Utilities Code, from a service area encompassing a radius of ten miles from his terminal at 4826 E. Balch Street, Fresno, California, subject to the following restriction:

Applicant shall operate a maximum of two buses.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulation. Failure to do so may result in cancellation of the operating authority granted by this decision.

Applicant will be required, among other things, to comply with and observe the safety rules administered by 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. 115-Series.

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

Dated JAN 15 1980, at San Francisco, California.

John E. Bryan President
James L. Steiner
Richard P. Havell
Edward T. Pedrick
Samuel J. Jones Commissioners