

ORIGINAL

Decision No. 91817 MAY 20 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of NORMAN DEVOW SPRINGER, dba)
WESTERN TOURS, for Class "B")
certificate to operate as a)
charter-party carrier of)
passengers, Napa. (File No.)
TCP-72-B.)

Application No. 58704
(Filed February 26, 1979;
amended June 11, 1979)

James N. Galseth, Attorney at Law, for applicant.
Raymond A. Greene, Attorney at Law, for Vaca
Valley Bus Line, protestant.
James S. Clapp and N. Paul Morris, Attorneys at
Law, for O'Connor Limousine Service and
Lorrie's Travel and Tours, interested parties.
Rita Clark, for the Commission staff.

O P I N I O N

On February 26, 1979 Norman Devow Springer, doing business as Western Tours, filed an application for a Class B certificate to operate as a charter-party carrier of passengers from a service area encompassing a radius of 40 miles from Napa. On June 11, 1979 the application was amended to reflect equipment and financial changes, as well as the name of Ready-Tour Corporation, a newly formed corporation, as successor to Mr. Springer.

Public hearing was held before Administrative Law Judge Daly at San Francisco on February 22, 1980 and March 21, 1980, with the matter being submitted on the latter date.

Mr. Springer, who is president of applicant, was employed for 13 years by Greyhound Lines as a bus driver. For eight years he worked for a charter-party agent and for the past two years has been in business for himself operating a passenger stage service

between Napa and Mare Island. He also provides service as an Interstate Commerce Commission (ICC) charter-party carrier. Mr. Springer's wife is the owner of Western Tours, a travel tour business located in Napa, and Mr. Springer spends part of his time in supervising and managing the business.

Applicant operates six buses, four of which are owned and two are leased. They range from 41 passengers to 47 passengers in capacity. The buses are inspected every 30 days and are covered by an insurance policy with \$700,000 liability limits.

According to Mr. Springer there is a shortage of charter buses in the Napa area, particularly during the summer months. This he attributes to the fact that revenue for charter buses is based upon mileage or hours, and charter operators prefer long overnight trips to one-day local trips. He testified that other charter-party carriers have frequently leased his equipment and drivers to provide chartered service.

Four public witnesses appeared in support of the proposed service, including a member of the Napa County Board of Supervisors, who testified on his own behalf. He supports the application in the interest of energy conservation. Another witness who supported the application was primarily interested in tours to Reno, which would be beyond the scope of the authority requested.

Two witnesses representing travel tour businesses, one located in Napa and the other in San Leandro, testified that they had difficulty in getting charter buses for tours or trips originating in the Napa area. According to their witnesses, they have called local operators as well as Greyhound Lines and Vaca Valley Bus Line and were either told that no equipment would be available for the date requested or that they would be placed on waiting lists. If nonlocal carriers are used, a mileage charge is assessed for deadheading between the carrier's home terminal and Napa. Both witnesses agreed that there is a need for additional

charter-party carriers in the Napa area and that the need will increase because with the high cost of gasoline more people will rely upon public transportation for recreational trips.

Protestant, Vaca Valley Bus Line, performs both intrastate and interstate charter operations as well as a certificated passenger stage service between Fairfield and Travis Airport. It owns and operates 25 buses including 15 cross-country buses, which are air conditioned and equipped with restrooms. Although its home terminal is located in Fairfield, it has designated 16 locations as equipment points. No equipment is actually stationed at these points, but it eliminates the charge for deadheading a bus between Fairfield and the equipment points.

The general manager of Vaca Valley Bus Line testified that no additional carrier is needed in the Napa area and that protestant has sufficient equipment available to handle all new business.

He further testified that the Napa travel agency witness appearing in support of applicant requested service on only one occasion and that was for a school trip on which the school wanted to use its own driver. Company records, he claimed, failed to show any requests from the San Leandro travel agency; however, he admitted that these records reflect only confirmed reservations and neither inquiries nor refusals.

Discussion

It appears that there are times, particularly during the summer months, when there are not sufficient charter buses to meet the demand for service in the Napa area. When this occurs, the public must resort to the use of nonlocal charter carriers, if available, and pay the additional cost of deadheading equipment to and from Napa. Although protestant may have had 16 designated equipment points at the time of hearing, the California Area Charter Coach Tariff indicates that it had only four designated equipment points as of September 10, 1979, i.e., Fairfield, Suisun, Travis, and Vacaville.

The increasing use and demand for charter buses is best evidenced by the amazing growth in the intrastate gross revenues of Vaca Valley Bus Lines, which went from \$108,230 in 1976 to \$422,928 in 1978. For all practical purposes applicant's equipment is presently being used to meet the existing need for service by way of leasing equipment and drivers to other charter carriers. There is no reason why this should not be continued as an independent operation.

Findings of Fact

1. Applicant has the necessary experience, ability, fitness, and financial ability to initiate and conduct the proposed service.
2. There are not sufficient charter buses to meet the demand for service in the Napa area particularly during the summer months. When this occurs, the public must resort to the use of nonlocal charter carriers, if available, and pay the additional cost of deadheading equipment unless Napa has been designated as an equipment point.
3. There have been occasions when protestant, Vaca Valley Bus Line, has been unable to provide equipment from its terminal in Fairfield for charters originating in Napa and its environs.
4. The gross intrastate revenues of Vaca Valley Bus Line experienced a 400 percent increase during the two-year period 1976-1978. The certification of applicant's service would not adversely affect the operations of Vaca Valley Bus Line or other carriers serving the Napa area.
5. Public convenience and necessity require applicant's service.
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.
7. The following order should be effective the date of signature since there is an immediate demonstrated need for applicant's service.

Conclusion of Law

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

Applicant 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. A certificate of public convenience and necessity, to be renewed each year, shall be issued to Ready-Tour Corporation authorizing it 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 forty miles from its terminal at 743 First Street, Suite 3, Napa, California.

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 is the date hereof.

Dated MAY 20 1980 at San Francisco, California.

John E. Bryan
President

Richard W. Shavelle

Clair T. DeSantis

Thomas M. Quinn
Commissioners