

Decision No. 92620

January 21, 1981

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Willis Lee Shifflet, doing )  
business as Diamond Charter Lines, )  
for a Class "B" Certificate to )  
operate as a Charter-Party Carrier )  
of Passengers, Monrovia. )

Application No. 59883  
(Filed August 15, 1980)

Willis L. Shifflet, for himself, applicant.  
R. D. Rierson, Attorney at Law (Illinois),  
for Greyhound Lines, Inc., protestant.

O P I N I O N

Willis Lee Shifflet (applicant), dba Diamond Charter Lines, seeks a certificate of public convenience and necessity to operate as a Class B charter-party carrier of passengers. Applicant proposes to provide charter service within a 40-mile radius from his terminal in Monrovia. He proposes to operate a 1967 GM 40-passenger bus. The financial statement attached to the application shows assets of \$313,000 and liabilities of \$144,000. ✓

Greyhound Lines, Inc. (Greyhound) protested the application. A duly noticed public hearing was held October 20, 1980 at Los Angeles before Administrative Law Judge Banks and the matter was submitted.

Applicant testified that he had purchased a 41-passenger bus and that it was mechanically sound. His plans are to offer all types of tour service within a 40-mile radius of Monrovia. He stated he has had no experience in the charter or any transportation business, but that his son, who has been driving tour buses for four

years, advised him he could make a good living doing charter work. He stated his son also advised him on the steps required to enter the charter business and that he could begin operating as soon as he filed for a certificate. He also stated that he had checked with several travel agencies and tour bureaus and was advised there was a need for more charter operators.

Testifying for protestant Greyhound was its district manager Robert O. Burlingame. In support of his testimony, Burlingame introduced 12 exhibits. These exhibits show that: (1) Greyhound is certificated to operate as a Class A charter-party carrier of passengers, (2) Greyhound provides extensive charter and passenger stage service in the area applicant proposes to serve, (3) as of October 1, 1980 Greyhound has 1,900 intercity buses licensed in California, (4) it operates and maintains numerous garages and service points throughout the state, (5) it has sales outlets throughout applicant's proposed origination area, (6) typical Greyhound charter advertisements appear in telephone yellow pages, and (7) during May 1980, Greyhound handled 101 intrastate charters originating within applicant's proposed origin area generating revenues of \$119,995.44. Greyhound believes that it can adequately handle charter-party requests in applicant's proposed service area, that there is no need for additional charter-party operators, and that entry of another charter-bus company will cause a diversion of traffic with a resultant adverse financial effect on Greyhound.

Discussion

In Decision No. 91206 dated January 8, 1980, we stated that in the area of charter-party bus operations competition is a most desirable goal and that a policy of limited competition under regulation would have a beneficial effect for the public interest. We also stated that we would look to the circumstances of each application to determine whether public interest requires granting the requested authorization since the granting or withholding of charter-party permits was a legislative act resting within our jurisdiction.

In granting a certificate of public convenience and necessity, there are several factors to consider. These include whether there is a need for the service, applicant's experience, and the financial ability to carry out the proposed service.

Based on the information contained in the application there is little doubt that applicant possesses the financial ability to carry out the proposed service. However, applicant has the burden of presenting some evidence in the hearing room on the need for its proposed service other than the mere conjecture that people would use the proposed service and that he understands there is a public need.

Applicant's total evidentiary showing was that he purchased a 41-passenger bus on the strength of his son's counsel that a good living could be made in the charter business, that the bus was purchased before filing the application, that he had conversations

with other operators who told him there was a need for more charter service, and that he plans to offer charters within a 40-mile radius of Monrovia. No public witnesses testified in support of the application. Applicant has no experience in the transportation business, provided no operational plans for the record, presented no evidence or testimony regarding promotions to attract business, and made no market survey to support the belief that there is a need for the service. In addition there is no testimony or evidence to support the conjectural projection of income and expense. In other words applicant's evidentiary showing was woefully inadequate. Applicant made no preparation before the hearing, believing that he could operate by merely filing the application. We believe applicant's business plans have not been thoroughly developed and may be ill-conceived. Given these circumstances we cannot grant this application.

Notwithstanding our denial of this application, if applicant can show at a later time that conditions have changed and can demonstrate a reasonable expectation of sufficient business to justify and support the proposed service, we will consider a new application for operating authority.

Findings of Fact

1. Applicant seeks a Class B charter-party certificate to provide charter service within a 40-mile radius of Monrovia.
2. Applicant has not demonstrated by evidence that public convenience and necessity require the service he proposes.

Conclusions of Law

- have* 1. Public convenience and necessity for applicant's service ~~has~~ not been demonstrated.
2. The certificate sought by applicant should be denied without prejudice.

O R D E R

IT IS ORDERED that applicant's request for a Class B charter-party carrier of passengers certificate is denied without prejudice.

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

Dated JAN 21 1981, at San Francisco, California.

*John E. Guyon*  
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 President

*Richard D. Kowale*  
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*Samuel J. ...*  
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Commissioners