

Decision No. 92729 February 18, 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Sanders Bus Lines, Inc., for a)
Class "B" certificate to operate)
as a charter-party carrier of)
passengers, Oakland (GO 98-A).)

Application No. 59759
(Filed June 24, 1980)

Jesse L. Sanders, for Sanders Bus Lines, Inc., applicant.
R.D. Rierson, Attorney at Law, for Greyhound Lines, Inc.;
Dennis E. Richardson, for Franciscan Lines, Inc.; and
N. Paul Morris, Attorney at Law, for Lorrie's Travel
and Tours; protestants.

O P I N I O N

Applicant operates 62 buses as an East Bay contractor transporting children to school, athletic events, and concerts. It has applied for authority to operate as a Class B charter-party carrier of passengers out of the city of Oakland. Protests were received from Greyhound Lines, Inc. (Greyhound), Franciscan Lines, Inc.

(Franciscan), and Lorrie's Travel and Tours (Lorrie's). The Lorrie's protest was withdrawn after applicant's representative advised that all vehicles used in the proposed service would accommodate 24 or more passengers, and that pickups would be provided exclusively out of Alameda and Contra Costa Counties. A public hearing was scheduled and held in San Francisco on October 1, 1980 before Administrative Law Judge Edward G. Frasen. Evidence was presented by applicant, Franciscan, and Greyhound.

Applicant's vice president testified that applicant transports students, athletic teams, handicapped, and nursery school children for the Oakland schools. Applicant also contracts with the Emeryville and San Lorenzo schools districts to transport students. He stated that applicant holds a charter-party permit which limits its operation to a fifty-mile radius. He stated that 13 of applicant's vehicles will carry more than 24 passengers and that applicant is frequently asked to provide charter service but cannot do so. Service would be out of Alameda and Contra Costa Counties, transporting minority groups. It is proposed that vehicles with a capacity of at least 25 passengers will provide the service.

The sales manager of Franciscan testified as follows: The San Francisco Bay Area is saturated with large Class A charter carriers; Franciscan operates 31 motor coaches with a capacity of 39 to 49 passengers; Falcon Charter Lines has 36 buses, Eastshore Charter Lines 40, Scenic Tours 12, and Trans-Cal 14 vehicles. Peerless has 60 buses in Oakland, California Nevada Golden Tours another 40. These carriers operate about 293 vehicles and the total does not include the large fleets maintained by Greyhound and Continental Trailways. An exhibit (No. 1) was placed in evidence to show that Franciscan had buses available during 16 days in March, 1980; 22 in April, 18 in May, and 20 in June. These vehicles were idle due to lack of business.

Greyhound's district manager testified and placed 12 exhibits in evidence. A copy of Greyhound's certificate (Exhibit 2);

a timetable of local service (Exhibit 3); Greyhound's Class A Charter-party authority (Exhibit 4); a list of available buses (total of 1930) (Exhibit 5); map of where extra drivers are based (Exhibit 6); garages and maintenance points (Exhibit 7); photo of popular bus used on charters (Exhibit 8); terminals and Greyhound agents, 5 and 34 within applicant's proposed pickup area (Exhibit 9); a listing of toll-free communication lines maintained for Greyhound callers (Exhibit 10); photocopies of telephone directory pages showing ads maintained in various publications (Exhibit 11); a brochure describing charter service provided (Exhibit 12); and a record of all intrastate charters originating within the pickup zone applicant seeks to serve, for the month of May 1980 (Exhibit 13). This exhibit lists 100 charters using 145 buses, with a gross of \$103,747.87. The witness stated that Greyhound must have charter revenue to support many unprofitable routes, which it is required to continue as a public service.

Applicant can provide a specialized service and should be granted a Class "B" certificate. It has the required experience and is owned and operated by black Americans in an area of predominantly minority population. Applicant's witness stated that he had received numerous requests for service from minority groups who prefer to patronize a local operator based in the neighborhood. He advised that applicant will use full-size buses in the service to be provided.

Applicant's statement of income for the 3 months ending November 30, 1979 shows a gross income of \$329,482 and a net income of \$26,522.

Findings of Fact

1. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require that the service proposed by applicant be established.
3. Applicant should be authorized to pick up passengers in Alameda and Contra Costa Counties, exclusively within a radius of forty air miles from its terminal at 850-5th Avenue, Oakland, California.
4. Protestants operate throughout the territory applicant has applied to serve, but applicant's management and customers are from the same minority group and applicant's terminal is located nearer to where its customers reside. Under the circumstances, protestants' service is not satisfactory to the Commission. Applicant will better serve a local segment of the market.
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 proposed authority should be issued as provided in the following order, which should be effective the date of signature since there is a demonstrated need for service.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity 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 air miles from applicant's home terminal at 850-5th Avenue, Oakland, California, is authorized to be issued to applicant, Sanders Bus Lines, Inc.
2. Applicant's authority to pick up passengers is limited to Alameda and Contra Costa Counties.
3. All buses operated by applicant will have a capacity of not less than 24 passengers.
4. In providing service pursuant to the certificate when issued, applicant shall comply with and observe, among other things, 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. Failure to do so may result in cancellation of the operating authority.

5. When the required California Highway Patrol clearances are received by the Commission's Passenger Operations Branch and the evidences of adequate protection against liability imposed by law are filed in compliance with General Order No. 115-Series, the annual renewable certificate on Form PE-695 will be issued by the Passenger Operations Branch under the authorization of Resolution PE-303, approved July 29, 1975.

The effective date of this order is the date hereof.

Dated FEB 18 1981, at San Francisco, California.

John R. Coyle

President
Michael C. Powell

Terrence M. Spitzer

Commissioners