

Decision No. 92761 MAR 3 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Mt. Lassen Motor Transit, Inc., for)
a Class "B" certificate to operate)
as a charter-party carrier of pass-)
engers, Red Bluff (GO 98-A).)

Application No. 59756
(Filed June 24, 1980)

Handler, Baker, Greene & Taylor, by Daniel W. Baker, Attorney at Law, for Mt. Lassen Motor Transit, Inc., applicant
R. D. Rierson, Attorney at Law, for Greyhound Lines, Inc., protestant.

O P I N I O N

Applicant and its predecessor have been operating as a passenger stage corporation since 1924 (PSC-650). Applicant transports passengers, baggage, and mail over primary route (State Highway) 36 between Red Bluff and Susanville. It also transports general commodities in the same vehicle, under a highway common carrier certificate. It has applied for authority to operate as a Class B charter-party carrier of passengers out of its terminal at 1023 North Main Street, Red Bluff, California.

Greyhound Lines, Inc. (Greyhound) protested the application and requested that a hearing be scheduled. A public hearing was held in San Francisco on October 23, 1980, before Administrative Law Judge Edward G. Fraser. Both parties presented

documentary evidence and testimony. Applicant presented a set of 39 verified statements in support of the application from representatives of government, business, travel agents, social organizations, and individuals, all from the Red Bluff area.

The president of applicant, a California corporation, placed his prepared testimony in evidence as Exhibit 1. He stated that all of applicant's present authority has been combined in Decision No. 56668, dated May 13, 1958, in Application No. 32004. Applicant's vehicle leaves Red Bluff at 8:00 a.m. every morning, Monday through Saturday. It transports passengers, baggage, express, mail, and freight to towns along the route, in addition to isolated residences and places of business. Applicant transports about 1500 passengers a year, plus 20 to 25 weekly freight shipments between 3 and 500 pounds, and daily mail under a contract with the United States Post Office. The daily schedule arrives in Susanville at 1:00 p.m., leaves at 1:30, and is back in Red Bluff at 5:00 p.m.

Applicant operates a 1974 7-passenger Dodge minibus and a 10-passenger 1969 International Travelall. Applicant also owns a 1966 40-passenger International type bus, a flatbed truck, and a Ford service car. Applicant will purchase two 41-passenger intercity buses if the charter authority is granted. Applicant's employees include the witness as full-time driver and manager, his wife as bookkeeper

and dispatcher, another full-time and one part-time driver, with a mechanic who works part time, for a total of 5. Applicant has provided a balance sheet and two income statements. For the 7 months ending August 31, 1980, applicant shows a profit; and for the 12 months ending March 31, 1980, applicant shows a small loss.

Applicant's Exhibit 3 notes that Shasta County has a population of 138,000 and Tehama County 40,900. Red Bluff is located in the latter county. Shasta County borders Tehama on the north, with Redding as the principal city. Applicant's exhibits include a history of its operation (Exhibit 2), Interstate Commerce Commission authority (Exhibit 4), telegram from a U.S. Congressman (Exhibits 6 & 7), letter dated August 25, 1980 from this Commission authorizing applicant to place verified statements in evidence rather than schedule a Red Bluff hearing to take testimony (Exhibit 8), and a list of applicant's proposed tours to Mount Lassen, Burney Falls, Lake Shasta, Eureka, Napa Valley, Sacramento, San Francisco, and Ski Tours (Exhibit 9).

Applicant's office manager testified. She is the wife of the first witness. She stated that many calls come in from people who are inquiring about charter service. Some of the callers have asked for small buses (less than 27-passenger capacity) to lessen the cost of the proposed trip. Greyhound seems to be the only other

active charter operator in Red Bluff and rents only large buses. She admitted that Redwood Empire Line charters out of Eureka, but doesn't know whether they solicit business in Red Bluff. Both of applicant's witnesses noted that deadhead mileage vastly increases the cost of service from transportation companies with no terminals in Red Bluff or Tehama County. A mileage fee is charged to move the bus from where it is stored to the point where the charter starts and from the termination of the charter back to the starting point. This fee is considerable, if a bus is moved from Sacramento or Chico, to start a charter in Red Bluff. It was noted that applicant will charge no deadhead fees on charters originating within its pickup area of forty miles.

Applicant presented testimony from three residents of the Red Bluff area. The first witness stated that he has been a member of both the Elks and Moose fraternal organizations for about 25 years. He is authorized to speak for both groups and to advise that each has a need to charter transportation 2 to 5 times a year. They have used Greyhound in the past and it has been expensive. One charter was canceled because they could not fill the bus and it became too expensive for those who wanted to go. He is convinced of the need for a local operator because it will reduce the expense of deadhead mileage. Applicant's president is not a member of the Moose or Elks,

but he has been a friend for 8 years and the witness has used applicant's service, which was excellent. A resident of the town of Mineral, 40 miles east of Red Bluff, represented the Mineral Homeowners (108 members), the local chapter of the National Ski Patrol, and the Tehama County Concert Association (400 members). He stated that the homeowners frequently require transportation to Redding, preferably on small buses, to save expense. Greyhound operates in Redding, but charges for a minimum of 80 miles as deadhead. Local groups have a need for transportation to Chico, Redding, Susanville, and the Bay Area. A reliable, reasonably priced service is essential, especially in the winter. The last witness was general manager of a resort in Mill Creek, east of Red Bluff. The resort has 16 cabins and 8 trailer lots: there are also 119 homes in the area. She favors a local operator who could provide small buses, or transportation by van. Mill Creek would not have sufficient people to fill a large charter bus and Greyhound service is expensive. The witnesses admitted on cross-examination that they support applicant because they have been advised that small buses will be available at low cost, and that service will be tailored to their needs.

Greyhound placed 10 exhibits in evidence. Exhibit 10 is a map with a circle drawn around Red Bluff to illustrate the area encompassed in a 40-mile pickup area: Exhibit 11 shows Greyhound's

local authority on regular route and special operations: Exhibit 12 is a copy of Greyhound's Class A charter certificate; Exhibit 13 shows there are 1,900 buses available for service in California; Exhibit 14 is a photograph of a type of bus frequently used in charter operations; Exhibit 15 is a map illustrating the many California points where Greyhound has extra drivers on call; Exhibit 16 is a list of terminals and garages where buses are serviced; Exhibit 17 is a brochure in color, used to advertise and promote charters; Exhibit 18 shows Greyhound's communication system, which can be used by agents or employees to arrange charters; Exhibit 19 lists all of Greyhound's regular route service in Northern California; Exhibit 20 shows the charters handled by Greyhound from January through June, 1980, a total of 25 charters, using 30 buses, and earning a revenue of \$28,188.98.

Greyhound's assistant director of traffic, an employee for 21 years, testified for protestant. He emphasized the importance of charter revenue. It helps to balance the loss suffered by Greyhound on many unprofitable daily routes, maintained solely for public convenience. He stated that an operator must recover the cost of deadhead mileage on each charter; otherwise many charters would be unprofitable. He advised that he does not think applicant will be able to continue charging the same fees for all pickups within 40

miles of its terminal. On cross-examination he noted that Greyhound's smallest bus has a capacity of 39 passengers.

Discussion

Applicant has transported passengers and freight between Red Bluff and Susanville for many years. Public interest in its past and proposed operation is indicated by the verified statements applicant placed in the record. Those who signed were not available for cross-examination and Greyhound therefore objected to receipt of the statements. But they were received as Exhibit 6. The testimony of three public witnesses and applicant's presentation form a basis for granting the application, even without considering the verified statements. It is evident from the testimony that Greyhound service may be too expensive for local consumers. Applicant can provide the lowest cost charters from its in-town terminal and offer the potential of better service to the Red Bluff locality.

With respect to Greyhound's objection to the verified statements, which the ALJ received into evidence, we point out that a certification proceeding is quasi-legislative and administrative in nature. We are not bound by the strict rules of evidence. Accordingly, statements, particularly verified statements, may be taken into the evidentiary record as corroborative evidence. Greyhound's objections concerning these verified statements really went to the weight they should be afforded as evidence, not their admissibility. Objections such as this do not preclude us from having corroborative statements made part of the

record to evaluate. A holding to the contrary would make our certification proceedings far too burdensome and time-consuming, and work contrary to the public interest. Our procedures, in matters such as this, should not be so cumbersome, expensive, and time-consuming that they thwart the applicant of modest means and cause unrealistic allocation of our limited resources and taxpayer dollars.

Need for proposed service can be shown by the testimony of an applicant on how he has assessed the marketplace and determined need for service. Such testimony may be buttressed with some public witnesses, and further corroborated with verified statements, letters, etc. The point is there is no need for the expense and delay for all concerned with a parade of every possible public witness into the hearing room.

Findings of Fact

1. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service. Public demand for the proposed service has been demonstrated.

2. Public convenience and necessity require that the service proposed by applicant be established.

3. Applicant should be authorized to pick up passengers within a radius of 40 air miles from its home terminal at 1023 North Main Street, Red Bluff, California.

4. Greyhound serves the same territory, at higher fares than those proposed by applicant. Greyhound's services are therefore not satisfactory to the Commission.

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.

6. The following order should be effective the date of signature since there is a demonstrated present need for the proposed service.

The proposed authority should be issued as provided in the following order.

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 1023 North Main Street, Red Bluff, California, is authorized to be issued to applicant, Mt. Lassen Motor Transit, Inc.

2. 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. ✓

3. 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 Resolution PE-303, approved July 29, 1975.

The effective date of this order is the date hereof.

Dated MAR 3 1981, at San Francisco, California.

John E. [Signature] President
[Signature]
[Signature]
[Signature]
Commissioners