

Decision No. 92762 MAR 3 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of James John Warfield, doing business as Sunday Bus Lines, for a Class "B" Certificate to operate as a Charter-Party Carrier of Passengers, Huntington Beach (GO 98-A).

Application No. 59763 (Filed June 25, 1980)

James John Warfield, for himself, applicant.
Robert D. Rierson, Attorney at Law,
for Greyhound Lines, Inc., protestant.

O P I N I O N

James John Warfield (Warfield), doing business as Sunday Bus Lines, requests authority to operate as a Class "B" charter-party carrier of passengers from his headquarters in Huntington Beach, California.

A duly noticed hearing was held in this matter in Los Angeles before Administrative Law Judge N. R. Johnson on November 24, 1980, and the matter was submitted. Testimony was presented on behalf of Warfield by himself and on behalf of Greyhound Lines, Inc. (Greyhound) by one of its district managers, R. O. Burlingame.

Warfield is currently operating passenger stage service between the Southern California Edison Nuclear Generating Station at San Onofre, California, and various points in Riverside and Orange counties. He testified that during 1980 he leased his buses and drivers for 17 charter parties to handle overflow business for such operators as Mark IV, Angel Town, and Starline Tours. He also leased his buses, without drivers, for other noncharter-

party operations. Warfield further testified that he has had several requests for charter-party service, but had to refer the requests to certificated operators because he lacked the proper authority to provide such service. Based on these experiences he concludes there is public need for his proposed service.

Warfield owns two 39-passenger 1966 Motor Coach Industry buses. As of May 5, 1980, according to the application, Warfield's total assets were \$174,200, his total liabilities were \$17,340, and his net worth was \$156,860. He testified that his financial position has slightly improved since that date.

Testimony presented on behalf of Greyhound indicates that:

1. Greyhound operates numerous scheduled routes within the service area requested by Warfield with most of those routes being unprofitable.

2. Greyhound has 34 sales outlets located within Warfield's proposed area of origination, all of which can arrange charter parties.

3. Greyhound has a Class "A" certificate from this Commission to operate as a charter-party carrier of passengers, has 1,876 intercity buses licensed in California, advertises heavily its charter-party services, and during August 1980 had charter-party revenues of \$72,814.32 from charter parties originating within Warfield's proposed area of origin.

4. Greyhound's operating ratio is approximately 97 percent and Warfield's proposed operation would adversely impact Greyhound's intrastate charter-party operations.

There is no question that Warfield has the burden of proving public convenience and necessity to obtain a certificate. But there is no requirement that this burden be met by public witness testimony, particularly in an application for a charter-party permit. Consequently, the lack of public witness testimony in support of the proposed service is not in and of itself an adequate basis for denial of the application.

In determining whether or not to grant a certificate the Commission considers such factors as: (1) public requirements for service, (2) adequacy of existing service, (3) adequacy of proposed service, (4) quality of proposed service, (5) revenue requirements and rates, (6) technical feasibility, (7) technical competence and financial integrity of the operator, (8) economic feasibility of the proposed operations, and (9) present operations. (Silver Beehive Tel. Co. (1970) 71 CPUC 304.)

The application of the above criteria to the proposed operations of Warfield indicates that the requested authority should be granted.

Two additional factors are to be considered in arriving at our decision in this matter. A major portion of the evidence presented by Greyhound related to numerous scheduled service routes within the service area requested by Warfield with most of these routes being unprofitable. Obviously, the granting of the requested charter-party certificate will have no effect on such regularly scheduled route operations. In addition, Greyhound presented testimony indicating that during August, 1980 it received charter-party revenues of \$72,814.32 from charter parties originating within Warfield's proposed area of origin. The record

is clear that the basis for the requested authorization and the expected patronage of the proffered service is the overflow business from charter-party operators other than Greyhound. Under these circumstances it appears that there will be no diversion of revenues from Greyhound.

Findings of Fact

1. Warfield has the ability, experience, and financial resources to perform the proposed service.
2. Public convenience and necessity require that the service proposed by Warfield be established.
3. Granting the requested certificate will not result in diversion of revenues from Greyhound.
4. Warfield should be authorized to pick up passengers within forty air miles of his home terminal in Huntington Beach.
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.

Conclusions of Law

1. The requested authority should be granted as provided in the following order.
2. The following order shall be effective the date of signature because there is a public need for the proposed service.

O R D E R

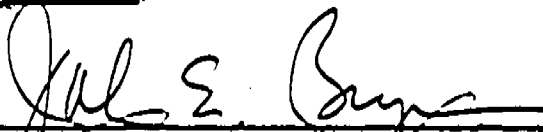
IT IS ORDERED that:


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 in the city of Huntington Beach, is authorized to be issued to applicant, James John Warfield, doing business as Sunday Bus Lines.
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 evidence 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 MAR 3 1981, at San Francisco, California.



President






Commissioners