

ORIGINAL

Decision No. 93008

MAY 5 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of MARTIN J. FEINBERG, doing busi-)
ness as MARTIN BUS LINES, for a)
certificate to operate as a)
Class "B" charter-party carrier)
of passengers, Los Angeles (File)
No. 92-A).)

Application No. 59930
(Filed September 10, 1980)

Martin J. Feinberg, for himself, applicant.
R. D. Rierson, Attorney at Law, for Greyhound
Bus Lines, Inc., protestant.

O P I N I O N

Martin J. Feinberg, doing business as Martin Bus Lines (applicant), requests authority to operate as a Class B charter-party carrier of passengers from his home at 138 North Sweetzer Avenue in Los Angeles, California. He has not yet secured a garage for his bus.

Summary of Application

As of July 8, 1980, Mr. Feinberg's total assets of \$82,188 consisted of \$19,188 in cash and in the bank, \$18,000 in other current assets, and the bus which cost \$50,000. He owes \$37,500 on the bus.

He estimates that in the first year of operation his bus would carry 14,560 passengers over 42,000 miles.

Estimated operating revenues would be \$66,000. His expense estimates are \$4,800 for maintenance, \$10,800 for fuel and oil, \$240 for tolls, \$5,300 for insurance, \$100 for administrative expenses, and \$700 for vehicle license and registration fees. His estimates of total operating expenses of \$21,940 and of net income of \$44,060 do not reflect payroll, depreciation, or interest expenses. Mr. Feinberg worked for Continental Trailways Company for six years.

Applicant proposes to initially provide charter service with a 1969 Silver Eagle bus having a seating capacity of 46 passengers, excluding the driver. The bus engine or ID number is 7656.

Notice

Notice of filing of the application appeared on the Commission's Daily Calendar dated September 12, 1980. Applicant served copies of the application, by mail, to individuals and corporations with which he might compete.

Protest

A protest was filed by Greyhound Bus Lines, Inc. (Greyhound), a Class A charter-party carrier of passengers authorized to conduct charter operations statewide in California. Greyhound operates both as a passenger stage corporation and as a charter-party carrier. The charter operations provide Greyhound with about 14 percent of its California intrastate operating revenues. Greyhound's protest states that: (a) its 1979 charter revenues of approximately \$8,701,000 help support its regular route operations; (b) on August 1, 1980 it had 1,940 intercity buses licensed to operate in California; (c) in accordance with Section 5375.1^{1/} of the Public Utilities Code the territory being sought by applicant is

1/ Section 5375.1 states:

"5375.1. Notwithstanding the provisions of Section 5375, if the applicant desires to operate in a territory already served by the holder of a certificate, the commission shall hold a hearing before granting the certificate. The commission shall not grant a certificate to such an applicant unless it can be shown that the existing charter-party carrier of passengers serving the territory is not providing services which are satisfactory to the commission and adequate for the public. In no event shall the commission issue more certificates than public convenience and necessity require and the commission shall place any restrictions upon such certificates as may reasonably be necessary to protect any existing charter-party carrier of passengers."

adequately served by existing carriers and therefore the application should be denied; (d) it would withdraw its protest if applicant would agree to use only one bus in providing charter-party service and to conduct no operations north of San Luis Obispo, Kern, and San Bernardino Counties in California; or that (e) the Commission set a hearing on the application.

Hearings

After notice, hearings were held in Los Angeles on November 20 and on December 16, 1980 before Administrative Law Judge Jerry Levander. Pursuant to a stipulation, the matter was submitted on the latter date.

At the initial hearing Mr. Feinberg testified that his six years of experience with Continental Trailways Company^{2/} included full management of its downtown Los Angeles garage, acting as a regional purchasing agent in connection with its maintenance activities, and in body shop management. He proposes to hire a driver and to do some of the bus driving. Applicant will meet the Commission's requirements for a Class B charter-party carrier, including insurance requirements. Applicant will use his bus for passenger pickups.

Mr. Feinberg contended that it was common industry knowledge that Greyhound farmed out charters during periods of heavy demand and that there was a need for more charter bus transportation in the Los Angeles area. He wanted to discuss conversations with travel agents and charter lines in support of this contention. Greyhound objected to his making self-serving statements of need without supplying corroborating witnesses. The matter was adjourned to give Mr. Feinberg an opportunity to present such witnesses.

^{2/} The name of that bus line has been changed to Trailways, Inc.

Shortly before the second hearing a representative of Mr. Feinberg contacted a Greyhound representative to arrive at a settlement. Mr. Feinberg believed that Greyhound accepted his stipulation to accept Greyhound's originally proposed territorial limitation, without a limitation on the number of buses he could operate.

Greyhound denied that it waived the limitation on the number of applicant's buses and criticized him for again being unprepared to produce the witnesses requiring his service.

After further discussion, Greyhound agreed to withdraw its protest if applicant agreed to use only two buses in providing charter-party service and to conduct no operations north of San Luis Obispo, Kern, and San Bernardino Counties in California, without further order of the Commission. Applicant stipulated to that limitation.

That settlement is reasonable and should be adopted. If applicant ever desires to have the restriction removed he may file an application to modify this decision.

Greyhound's criticism of applicant's lack of preparation is valid. To avoid a repetition of this type of situation, applicants for passenger stage and Class B charter-party certificates are receiving a letter outlining the scope of an applicant's obligation for a presentation at a hearing.

Findings of Fact

1. Applicant has the ability, experience, and financial resources to perform the proposed service.
2. Applicant's 46-passenger bus will be used in the proposed service.
3. There is a current need for the proposed service.

4. Greyhound agreed to withdraw its protest if applicant agreed to use only two buses in providing charter-party service and to conduct no operations north of San Luis Obispo, Kern, and San Bernardino Counties in California, without further order of the Commission.

5. Applicant stipulated to that limitation.

Conclusions of Law

1. Public convenience and necessity require that the requested authority should be issued.

2. The restriction on applicant's operations contained in Finding 4 herein should be adopted.

3. The following order should 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 at 138 North Sweetzer Avenue, Los Angeles, California 90048, is authorized to be issued to applicant, Martin J. Feinberg, doing business as Martin Bus Lines. Applicant shall conduct his operations in conformity with the restriction contained in Finding 4 herein.

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 the authorization of Resolution PE-303, approved July 29, 1975.

The effective date of this order is the date hereof.

Dated MAY 5 1984 , at San Francisco, California.

James E. Byrne President
Michael J. Blawie
Thomas J. ...
Walter ...
Missie C. ... Commissioners