

L/sm

ALT/L/SE

Decision No. 93059 MAY 19 1980**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 PINETREE SERVICE CORPORATION, INC.,
 a California corporation, for a
 certificate of public convenience and
 necessity to operate a sightseeing
 tour between points in Los Angeles
 and Orange Counties on the one hand
 and various points of interest in
 Los Angeles and Orange Counties on the
 other hand.

Application No. 60094
 (Filed November 19, 1980)

ORDER GRANTING LIMITED REHEARING
 AND MODIFYING DECISION NO. 92763

A petition for rehearing of Decision No. 92763 has been filed by Gray Line Tours Company. The Commission has considered each and every allegation contained in said petition and is of the opinion that good cause has been shown for granting a limited rehearing of Decision No. 92763 and for modifying that decision in several respects. Therefore,

IT IS HEREBY ORDERED that,

1. Rehearing of Decision No. 92763 is granted limited to the receipt of evidence on the issue of whether applicant should be granted a certificate of public convenience and necessity to operate a passenger stage service for the following six sight-seeing tours proposed:

Tour No.

- C) City Tour and Beverly Hills Shopping Tour;
- E) Santa Anita - Oak Tree;
- F) Hollywood Park;
- G) Dodger Stadium;
- H) Shopping Tour, Luncheon, and Newport Harbor Cruise; and
- I) Gardens Tour, Luncheon, Fashion Show, and Shopping - Newport Beach.

2. Decision No. 92763 is modified as follows:

a) The first paragraph of the discussion on page 7 of the decision beginning with the words, "It would appear ..." is modified to read as follows:

"If the proposed service is in a territory already being served by a certificate holder, protestants are entitled to the protection of the hearing requirement provided for in Section 1032 of the Public Utilities Code, but not otherwise. In dealing with the specialized passenger stage service of sightseeing tours, the word "territory" as used in Section 1032 is to be construed narrowly, (The Gray Line Tours Company (1973) 74 CPUC 669, 696). In this type of passenger stage service, we have previously held the word "territory" means the attractions included in the tour, not the routes used, or the area involved (Application of Tramway Trans. & Sightseeing Tours, 80 CPUC 1 (1976)).

It would appear from the tabular comparison that as to these three tours, because of differences in scenic attractions offered, Gray Line does not already serve in the proposed territory. Since the majority of the attractions listed in Pinetree's proposed Tour Nos. A, B, and D are not being served by any carrier, the requested service as to these tours is not in a territory already served by a certificate holder. Accordingly, as to these three tours, it is concluded that the hearing requirements of Section 1032 are inapplicable.

With respect to the six other tours proposed by Pinetree, the record cannot support a finding that no certificate holder already serves the territory in which the applicant seeks to operate. A hearing is granted to determine whether applicant should be granted a certificate of public convenience and necessity to operate a passenger stage service for these six proposed sightseeing tours."

b) Finding of Fact 5 is modified to read: "Pinetree has demonstrated that public convenience and necessity require certification of the services sought with respect to proposed Tour Nos. A, B, and D;

- c) Finding of Fact 8 is modified by inserting the words "the competitive clause of" preceding the words "Section 1032";
- d) Finding of Fact 9 is hereby deleted in full;
- e) Finding of Fact 11 is hereby added to read as follows:
"In applications for sightseeing tour-type passenger stage corporation certificates, "territory," as used in Section 1032, means the attractions included in the tour, not the routes used or area served.";

f) Finding of Fact 12 is hereby added to read in full as follows:

"Since the majority of the attractions listed in Pinetree's proposed Tour Nos. A, B, and D are not being served by Gray Line, the requested service is not in a territory already served by protestant."

g) The Conclusion of Law that the application should be granted is hereby deleted and the following Conclusions of Law are hereby added to read as follows:

1. Sightseeing tours are a highly specialized type of passenger stage corporation, which requires a narrow interpretation of the word "territory" as set out in Finding 11, above.";
2. Since Pinetree's proposed Tour Nos. A, B, and D are not in a territory already served by a certificate holder, a public hearing under Section 1032 of the Public Utilities Code is not necessary;
3. The application should be granted with respect to proposed Tour Nos. A, B, and D in accordance with the ensuing order;
4. A public hearing should be held to determine whether applicant should be granted a certificate of public convenience and necessity to operate passenger stage service for proposed Tour Nos. C, E, F, G, H, and I."

SS

of Decision 42763 in application 60094 in
~~amended incorporating~~ Appendix A ~~to hereby modified so as to delete Tour~~
~~attached, in revision of Original Page 3 and Original Page 4,~~ First Revised Page 3 and First Revised Page 4
 1) Ordering Paragraph 3 is hereby added to read as

follows:

"3. A hearing is granted limited to the determination of whether applicant should be granted a certificate of public convenience and necessity to operate passenger stage service for proposed Tour Nos. C, E, F, G, H, and I."

3. Except as granted and provided herein, rehearing of Decision No. 92763 is denied.

The effective date of this order is the date hereof.

Dated MAY 19 1981 , at San Francisco, California.

John E. Byrne
 President

Richard J. [unclear]

[unclear]
 Victor Calvo

Frederic C. Green
 Commissioner

SECTION 3. TOUR DESCRIPTIONS.

TOUR NO. DESCRIPTIONS

- A. LOS ANGELES CITY TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes stopping at points of interest including, El Pueblo Historic Park, Los Angeles Civic Center, Chinatown, Little Tokyo, San Antonio Winery, La Brea Tar Pits, Farmer's Market, Mann's Chinese Theatre and Hollywood Bowl, and return to points of origin.
- B. MUSEUM, CITY, AND LUNCHEON TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to the Los Angeles County Museum of Art and George Page Museum, the J. Paul Getty Museum, and the Norton Simon Museum of Art in Pasadena and luncheon at various restaurants, and return to points of origin.
- C.*
- D. DINNER AND EVENING CITY TOUR: Commencing from pickup points in Los Angeles County as described in Section 2, thence over the most appropriate and convenient routes to various restaurants in Los Angeles County for dinner and return to points of origin.
- E.*

Issued by California Public Utilities Commission.

*Deleted by Decision No. 93099, Application No. 60094.

SECTION #. TOUR DESCRIPTIONS. (Continued)

TOUR NO. DESCRIPTIONS

F.*

G.*

H.*

I.*

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

*Deleted by Decision No. 93099, Application No. 60094.