

ORIGINAL

Decision 93407 AUG 4 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mary E. Schreiber,  
Nancy McKinley,  
  
Complainants,

vs.

Franciscan Lines, Inc.,  
  
Defendant.

Case 10931  
(Filed December 5, 1980)

Nancy McKinley, for M. E. Schreiber, et al.,  
complainants.  
James A. Drucker, for Franciscan Lines, Inc.,  
defendant.

O P I N I O N

This complaint was filed by Mary E. Schreiber and Nancy E. McKinley (complainants), on December 5, 1980. Defendant, Franciscan Lines, Inc. (Franciscan), a passenger stage corporation (PSC-890) and charter-party carrier (TCP-149-A) operates a commuter bus service between Livermore and Oakland/San Francisco. The service, referred to by Franciscan as the Livermore Valley Commute, involves two daily round trips (Schedule A and Schedule B) between the Livermore area and San Francisco. The two schedules operate within five minutes of each other in the morning from Livermore and within 20 minutes of each other in the evening from San Francisco. Both schedules make nine stops in Livermore, but differ in the number and location of stops made in Oakland and San Francisco.

Complainants are regular passengers on the Livermore Valley Commute. Their complaint alleges that on more than one occasion: (1) without prior notice to passengers, scheduled buses were not run; (2) the evening bus was 30 to 45 minutes late; (3) substitute drivers were unfamiliar with the route and required passenger assistance to identify the route; and (4) passengers were given incorrect or incomplete information over the telephone regarding stops and schedules. Complainants ask this Commission to direct Franciscan "to provide on time service, all schedules run, and trained drivers familiar with the routes...[and]...to set standards of service and assess penalties for noncompliance with those standards."

On January 9, 1981, Franciscan answered the complaint objecting to its lack of specificity. Franciscan further asserted that the service deficiencies alleged in the complaint had been or would be cured.

Hearing on this complaint was held on May 6, 1981, in San Francisco. At that time, Ms. McKinley appeared on behalf of complainants and testified, along with two other passengers, regarding service on the Livermore Valley Commute. In her testimony, McKinley reiterated the factual allegations contained in her complaint and specifically identified four dates in October and November 1980, on which a scheduled evening bus was either canceled **without notice** to passengers or 30 to 45 minutes late. McKinley, who has been a passenger on the Livermore Valley Commute since April 1980, stated that incidents like those in October and November had occurred prior to those dates, but it was at that time "when things seemed to go really downhill." (Transcript (Tr. 3.) While McKinley acknowledged that service has "improved" and that she has been "satisfied with the service" since the beginning of the year, it was her belief that such

improvements were directly related to the filing of the complaint. Further, in her opinion, an order was necessary to ensure that "the service...stay at least at the quality it is now and not decline once again." (Tr. 6.)

The two other passengers who testified, Anne Briley and Gail Ashton, recited experiences similar or identical to McKinley's. Descriptions were repeated of instances when a bus was late or canceled in the fall of 1980, misleading information was given over the telephone, and route directions were given by passengers to Franciscan drivers. Both witnesses also complained about the cleanliness and maintenance of the buses, and Ashton specifically noted the lack of any advertising or publicity which would acquaint potential passengers with the service.

Again, however, neither Ashton nor Briley could recall buses being canceled or late, other than for mechanical failures, since January 1981. Both concurred that since that time the service has generally been satisfactory and that Franciscan's service was preferred to any other alternative, including Bay Area Rapid Transit (BART) or Alameda County (AC) Transit.

In response to this testimony, Franciscan presented one witness, James Casey, Franciscan's operations manager. Casey, whose duties include the scheduling of the daily commute and Franciscan's charter service, bus assignments, and driver relations, described Franciscan's equipment and bus maintenance program, the coordination of commute and charter schedules, and the performance and scheduling of the Livermore commute. Casey indicated that an increase in the number of complaints in the fall of 1980 coincided with Franciscan's request for a rate increase.

According to Casey the bus cancellations occurring in October 1980, resulted from a mistake by a dispatcher who thought "he could save deadhead mileage...by consolidating the two buses in the evening." (Tr. 30) Casey further stated, however, that all employees have now been directed not to cancel any commuter run without notice and that neither Livermore schedule has been canceled since October, other than for mechanical problems.

Casey also asserted that, despite a significant loss of ridership in the last several years due to diversion to BART, it was not Franciscan's intent to discourage ridership to Livermore. On cross-examination, Casey acknowledged, however, that the only means of learning about the Livermore Valley Commute is "word of mouth," and that only upon inquiry and request is a schedule of the service sent to a potential rider.

#### Discussion

On May 20, 1980, Franciscan filed Application (A.) 59679 for authority to increase fares for its Livermore and Danville commuter service. That application was protested by complainant McKinley who presented a petition signed by herself and 51 other riders of Franciscan's Livermore commute. The petitioners objected to actions by Franciscan which appeared to be discouraging ridership and complained about Franciscan's failure to have local advertising, a local telephone number, and correct information dispensed in answer to telephone inquiries. Petitioners also criticized the maintenance and cleanliness of the buses and requested that no rate increase be given until Franciscan seriously attempted to increase its ridership and substantially improved its service.

Although acknowledging Franciscan's failure to advertise as contributing to empty seats on the Livermore commute, we concluded in Decision (D.) 92961 in A.59679 that "the availability of BART's 18-hour-a-day publicly subsidized service at comparatively low fares is the principal reason for Franciscan's dwindling ridership." (D.92961 at p.7.) Because Franciscan's proposed fares could have caused a further drop in ridership if adopted, we found that a 50 percent fare increase, which would partially satisfy Franciscan's financial problems while keeping its fares reasonably competitive with BART's, was reasonable. We also stated:

" . . . We expect Franciscan to take immediate and aggressive steps to increase the number of passengers it transports between those points to supply it with the additional revenue it would have had if the full requested increase had been authorized. If three months after the effective date of this order Franciscan can show that it is unable by aggressive solicitation to build its ridership to at least a 90 percent load factor on both buses the Commission will entertain a request from Franciscan to eliminate one of its Livermore-San Francisco buses. Present patrons should help to promote Franciscan's services." (D.92961, at p.8; emphasis added.)

In addition, Finding 15 states: "Franciscan has not aggressively attempted to generate business for its Livermore-San Francisco area."

By participating in A.59679 and filing this complaint, complainant McKinley has fully apprised this Commission of the service problems related to Franciscan's Livermore commute. It appears from the record in this proceeding, however, that Franciscan has responded to the service complaints which generated this action and, at this point, the Livermore riders who appeared in this proceeding find the Livermore service to be satisfactory and preferable to BART or any of the other alternatives.

As we noted in D.92961, however, retaining the Livermore commute appears to be the most significant issue. We therefore reiterate our conclusion in that decision that it is incumbent upon both Franciscan and its passengers to take steps to promote this service. Based on the commuters' testimony, Franciscan, to accomplish this goal, should direct its efforts to providing more local publicity about its service, including a local telephone number and directory advertising, and continuously offering clean, well-maintained, and efficient buses operated by trained personnel. We find no specific basis for relief, but repeat our directive in D.92961 for Franciscan to commence a program of "aggressive solicitation" of its service.

Findings of Fact

1. The service complaints which are the subject of this complaint have not been repeated on Franciscan's Livermore Valley Commute since the beginning of this year.
2. Franciscan presently provides a satisfactory level of service to its Livermore passengers.
3. Aggressive solicitation by Franciscan is required to increase the ridership on its Livermore route.

Conclusions of Law

1. Franciscan should pursue the mandate of D.92961 to increase ridership on its Livermore Valley Commute.
2. Because the service problems which were the subject of the complaint appeared to have been corrected, the complaint should otherwise be denied.

O R D E R

IT IS ORDERED that:

1. Franciscan Lines, Inc., shall comply with D.92961 in operating its Livermore Valley Commute service.

