

*Filed Feb 23, 1959
9:30 am*

PSC 40,04

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Petition of The Greyhound Corporation)
(Central Greyhound Lines Division). Badger)
Bus Lines, Inc., Badger Coaches, Inc.,)
Joseph F. Wenzel, dba River Trails Transit) MC-1049
Lines, and Zephyr Lines, Inc., for Amendment)
to Rule PSC 40,04, Wisconsin Administrative)
Code.)

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Edward T. Kaveny, Secretary of the Public Service Commission of Wisconsin, do hereby certify that I have compared the annexed copy of the decision with the original decision of the Public Service Commission of Wisconsin in the above-entitled matter, now on file in the office of said Commission, and that the same is a true copy of such original decision and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Commission at its office in the City of Madison, this *20th* day of *February*, A.D. 19*59*.

Edward T. Kaveny

Secretary

PUBLIC SERVICE COMMISSION OF WISCONSIN

BEFORE THE
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Joint Petition of The Greyhound Corporation)
(Central Greyhound Lines Division), Badger)
Bus Lines, Inc., Badger Coaches, Inc.,)
Joseph F. Wenzel, Doing Business as River) MC-1049
Trails Transit Lines, and Zephyr Lines,)
Inc., for Amendment to Rule PSC 40.04,)
Wisconsin Administrative Code)

FINDINGS OF FACT, OPINION, AND ORDER

A joint petition for amendment to rule PSC 40.04, Wisconsin Administrative Code, relating to changes in schedules of common motor carriers of passengers was filed with the Commission on July 10, 1958 by The Greyhound Corporation (Central Greyhound Lines Division), Badger Bus Lines, Inc., Badger Coaches, Inc., Joseph F. Wenzel, doing business as River Trails Transit Lines, and Zephyr Lines, Inc., all interurban common motor carriers of passengers in Wisconsin. On July 29 the petitioners amended their petition as indicated in the findings of fact which follow.

Pursuant to due notice, hearing was held at Madison on September 17, 1958 before Examiner Calmer Browy.

Appearances:

Petitioners, by

Adolph J. Bieberstein, attorney
Madison

Intervenor in Support of Petition:

Peoria-Rockford Bus Company, by

Harold D. Ashlock, secretary-treasurer
Rockford, Illinois

Of the Commission Staff:

C. F. Riederer, engineering department

Findings of Fact and Opinion

THE COMMISSION FINDS:

Rule 40.04, Wisconsin Administrative Code, relates to the approval or suspension of proposed changes in interurban bus schedules. The rule now provides:

PSC 40.04 Proposed Change. If no objection to the proposed change is filed with the Commission within 7 days after the required notice or posting, whichever is later, the proposed change will not be suspended by the Commission subsequent to such 7-day period except after formal investigation and hearing. The notifying carrier will be informed promptly at the end of the 7-day period if no objection has been filed or if the proposed change has been suspended in response to objection or on the Commission's own motion. If all or part of the proposed schedule is suspended or objection is filed thereto, the portion suspended or objected to will be set for hearing.

As amended, the joint petition requests that this rule be revised to read:

PSC 40.04 Proposed Change. If no objection to the proposed change is filed with the Commission within 7 days after the required notice or posting, whichever is later, the proposed change will not be suspended by the Commission, subsequent to such 7-day period, except after formal investigation and hearing. If an objection to the proposed change is filed by any mercantile, agricultural or manufacturing society or by any body politic or municipal organization, or by a connecting or competing carrier, or by 25 persons within said 7 days, and the same shall be sufficient presumptively to justify the suspension of such proposed change, the Commission may suspend such proposed change of schedule or any part thereof. The notifying carrier will be informed promptly at the end of the 7-day period if no such objection has been filed or if the proposed change has been suspended in response to such objection, or on the Commission's own motion. The Commission may, if it deems sufficient cause therefor exists, set a hearing before it upon the propriety of such change.

Principal feature of the proposed rule is the attempt more clearly to define the objection or objections necessary before a proposed schedule change will be suspended. Actually, there never has been any question that a change should be suspended if objection was received from a competing carrier or from a mercantile, agricultural, or municipal society or by any political or municipal organization. There has been a question, however, with respect

to the number of objections filed by persons individually or in a petition which would warrant suspending a proposed schedule change. The proposed rule states that objection by any 25 persons would be sufficient presumptively for suspension of the schedule. The present rule merely refers to an "objection." In practice the Commission has not requested the carrier to suspend the change unless complaint was received from 4 or more persons.

The principal issue then is whether or not complaints from 25 or more persons or from a lesser number should normally be required before a proposed schedule should be suspended. It is understood that in any case the Commission on its own motion can suspend the proposed schedule.

The following arguments may be cited in support of the rule requiring 25 or more persons to complain:

a. The proposed procedure would be similar to that of the utility rule found in section 196.26, Statutes, and hence easy to administer.

b. The schedule change which is suspended on short notice causes considerable inconvenience to the carrier and also results in inaccurate information being published in the national bus guide. There is then a period when agents do not have available for the public correct schedule information.

c. The confusion described in (b) above could be caused at present by a minimum of 4 persons but could possibly inconvenience many more.

d. Present procedure now sometimes results in hearings where it appears in advance that the objection will almost certainly be denied.

e. Under the proposed rule the Commission can still postpone a schedule change on its own motion where there are fewer than 25 persons objecting but where there appears to be good reason for such suspension.

The following arguments are cited against changing the rule as proposed:

a. With the new rule it would be more difficult to postpone schedule changes. This is important because the present outlook is for more service curtailments than service additions. Riders will have difficulty circulating and filing an adequate petition within the 7-day period because intercity riders are a very heterogeneous group and ordinarily are not organized in any way.

b. The public generally would not be aware that objection from 25 or more persons would be necessary before a schedule change would be suspended.

c. Neither the proposed rule nor the present rule are very specific with respect to suspension of scheduled changes on the Commission's own motion.

Advantages of the proposed rule outweigh the disadvantages. However, it is felt desirable that the rule be explicit concerning the right of the Commission to suspend a schedule change on its own motion. Then in cases where a proper petition has not been filed, but where there is sufficient evidence indicating that a proposed schedule change should be suspended the Commission may do so without question. While this is probably permissible at the present time, the change would make it more definite. Section PSC 40.04 should be amended to read as hereinafter ordered.

Conclusion of Law

THE COMMISSION CONCLUDES:

That it is empowered by sections 194.18 and 227.014, et. seq., Statutes, to amend section PSC 40.04, Wisconsin Administrative Code, as herein ordered, and that an appropriate order should be issued.

Order

THE COMMISSION THEREFORE ORDERS:

1. That section PSC 40.04, Wisconsin Administrative Code, be and hereby is amended to read:

PSC 40.04 Proposed Change. If no objection to the proposed change is filed with the Commission within 7 days after the required notice or posting, whichever is later, the proposed change will not be suspended by the Commission subsequent to such 7-day period except after formal investigation and hearing. If an objection to the proposed change is filed by any mercantile, agricultural, or manufacturing society or by any body politic, or municipal organization or by a connecting and competing carrier or by any 25 persons with said 7 days and the same shall be sufficient presumptively to justify the suspension of such proposed change, the Commission may

suspend such proposed change of schedule or any part thereof. Nothing herein shall be construed to limit the right of the Commission on its own motion to suspend a proposed change of schedule or any part thereof. The notifying carrier will be informed promptly at the end of the 7-day period if no such objection has been filed or if the proposed change has been suspended in response to an objection or on the Commission's own motion. The Commission, if it deems sufficient cause therefor exists, may set a hearing on the propriety of such change.

2. That such amended rule pursuant to section 227.026, Statutes, be effective April 1, 1959.

3. That in accordance with section 227.023, Statutes, certified copies of this order be filed with the Secretary of State and with the Revisor of Statutes and that the amended rule shall be published in the March issue of the Wisconsin Administrative Register.

4. That in all other respects the joint petition herein be and the same hereby is denied.

Dated at Madison, Wisconsin, this 20th day of

February, 1959.

By the Commission.

Edward T. Kaveny

Secretary