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ORIGINAL

Decision No. 13371

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
 R. B. CREGAR, as lessor, and MOTOR)
 TRANSIT COMPANY, a corporation, as :
 lessee, for permission to enter)
 into a certain lease of motor operat-)
 ing rights, together with an option Application No. 9780
 to purchase the same, and permitting :
 said lessee to exercise said operating)
 rights.)

BY THE COMMISSION:

O P I N I O N

R. B. Cregar, as Lessor, and Motor Transit Company, a corporation, as Lessee, have petitioned the Railroad Commission for an order approving a lease and option to purchase, whereby said Lessor transfers under lease, with option to purchase, to said Lessee, his operative rights for the conduct of certain automobile and truck operation for a term of twenty-eight (28) months.

The operating rights herein proposed to be transferred by lease are those existing by reason of operation by applicant, R. B. Cregar, as of May 1, 1917 of an auto stage line as a common carrier of passengers and baggage between Riverside and Relief Springs serving as intermediate points the communities at Perris, Hemet and San Jacinto.

No holding out to the public for the transportation of parcels appeared in the original tariff filing (C.R.C. No. 1, Local Passenger Tariff No. 1, issued February 26, 1917, and effective March 1, 1917). Neither was any mention made of the intermediate points of Box Springs, Allesandro, Val Verde,

Snyder, Anderson, Enthanac and Coyote Pass.

Also the operative rights as authorized in this Commission's Decision No. 6439 of June 25, 1919 on Application No. 4480 granting certificate for the operation of an automobile stage line as a common carrier of passengers between Riverside and Santa Ana and specifically providing that no local business is authorized between Corona and Olive and intermediate points. This certificate conferred no authority for the transportation of baggage, parcels, express or other property for compensation.

Also the operative rights as authorized in this Commission's Decision No. 7763 of June 19, 1920 on Application No. 5791 authorizing the transfer of certain operative rights for the conduct of an automobile passenger service between San Jacinto and Idlewild and intermediate points such rights having been previously granted to R. E. Williams under this Commission's Decision No. 4921 of December 4, 1917, on Application No. 3355 which authorized the operation of an automobile stage line as a common carrier of passengers, freight and express between Idyllwild and San Jacinto and intermediate points, (Keencamp).

Also the operative rights as authorized in this Commission's Decision No. 8629 of February 21, 1921 on Application No. 5795 granting certificate of public convenience and necessity for the operation of an automobile stage line as a common carrier of passengers between Riverside and San Jacinto serving Eden Hot Springs and Gilman Hot Springs as intermediate points but prohibiting the carriage of passengers locally in Riverside or vicinity or locally between Riverside and Eden Hot Springs-both points inclusive- or between points intermediate

thereto; nor locally between San Jacinto and Gilman Hot Springs or points intermediate thereto, but permitting the carriage of passengers between points in the excepted territory to other points authorized or as then served by other lines operated by R. B. Cregar. No authority was granted for the carriage of baggage, parcels, express or other property for compensation.

Also the operative rights as authorized in this Commission's Decision No. 8873 of April 16, 1921 on Application No. 6632 granting certificate of public convenience and necessity for the operation of a passenger auto stage service between Oak Cliff and Idylwild via a new road to enable the routing of through cars to mountain resorts.

Also the operative rights as authorized by this Commission's Decision No. 10733 of July 20, 1923, on Applications No. 7888 and 7889 granting certificate of public convenience and necessity for the operation of a freight truck service between Keen Camp or Idylwild on the one hand, and Riverside, Perris, Hemet or San Jacinto on the other hand, and for the operation of through passenger stage service between Keen Camp and Idylwild on the one hand and Banning, Beaumont or Riverside on the other hand but with the restriction that no local service be given between Beaumont, Banning and Riverside.

The lease contract and option to purchase is fully set forth in the agreement between the applicants herein as executed under date February 5, 1924 and filed herein as an exhibit accompanying the application. The proposed lease transfers to applicant, Motor Transit Company, a corporation, the interest of applicant, R.B.Cregar, in that certain lease heretofore approved in its Decision No. 11912 of April 6, 1923 on Application

No. 8563 wherein R. B. Cregar leased for a term of twenty-six (26) months to Samuel K. Clark and Clarence W. West, a co-partnership, the operating rights for the transportation of passengers between Riverside and San Jacinto and intermediate communities.

Under the principles established by this Commission in its Decision No. 9065 of June 27, 1921 on Case No. 1442, A. B. Watson, complainant vs. White Bus Line, a corporation, et al., Defendants, which decision was sustained by the California Supreme Court in its Decision on Case No. S.P. 10099 (64 Cal. Dec. 278) no elaboration or expansion of operative rights over those existing by reason of operation in good faith as of May 1, 1917 or of any rights conferred by certificates of public convenience and necessity as thereafter granted by this Commission may be made by operators unless a certificate of public convenience and necessity will have been applied for covering such expansion of rights and have been granted by this Commission in an appropriate proceeding. The records of the Commission indicate that the operative rights of applicant, R. B. Cregar, as existing and shown by tariff filings of record as of May 1, 1917 have been enlarged by the unauthorized inclusion in tariff and schedules of intermediate points which were not served on such date. Some expansion of rights also appears as regards the carriage of baggage, parcels and express for compensation.

The Commission will not approve in this proceeding the transfer of any operative rights other than those properly of record as of May 1, 1917 by tariff and schedule filings and subsequent authorizations by certificates of public convenience and necessity or approved transfers and the order herein will so provide.

We are of the opinion that this is a matter in which a public hearing is not necessary in that an inspection of the lease contract and option to purchase shows nothing contrary to public policy and it appears in the interest of the public that the proposed agreement should be approved.

O R D E R

R. B. Cregar and Motor Transit Company, a corporation, having petitioned the Railroad Commission for an order approving a lease contract and option to purchase, whereby the former applicant leases to the latter certain operative rights for the conducting of automobile stage transportation, as more specifically set forth in the opinion which precedes this order, the Commission being now fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted,

IT IS HEREBY ORDERED that this application be, and the same hereby is granted, subject to the following conditions:

I. Applicant, R. B. Cregar, will be required to immediately cancel all tariffs and time schedules now filed with this Commission and applicant, Motor Transit Company, will be required to immediately file its tariffs and time schedules covering the routes and points as hereinabove specified in the opinion which precedes this order, all rates, fares and rules and regulations governing same as affecting points properly authorized to be identical with the rates, fares, rules and regulations to such authorized points as heretofore filed by applicant, R.B. Cregar. All tariff and schedule filings to be made in accordance with the provisions of this Commission's General Order No. 51 and other rules and regulations of this Commission which, insofar as same are applicable, are hereby referred to and are made a portion of the order herein.

II. The rights and privileges, the transfer of which are hereby authorized, shall not be sold, leased, transferred, assigned or hypothecated unless such sale, lease, transfer, assignment or hypothecation has first received the written approval of the Railroad Commission.

III. No vehicle may be operated over the routes herein authorized transferred unless such vehicle is owned by applicant, Motor Transit Company, or is leased by such applicant under a contract or agreement on a basis satisfactory to and approved by the Railroad Commission.

IV. The rental as agreed between the applicants herein and as contained in the agreement accompanying and forming a portion of the application herein, or the agreed option purchase price shall never be claimed by applicant, Motor Transit Company, as an operating expense or as a measure of value in any rate fixing or other proceeding before this Commission or any other authorized tribunal, the amount agreed upon as rental under the agreement herein authorized and the option purchase price being considered only by the Commission as the agreed values made by applicants herein for the purpose of this agreement and not in any manner binding upon or to be considered by this Commission as being approved for rate fixing or any other proceedings affecting the rights herein transferred as a measure of value.

Dated at San Francisco, California, this

5th day of April, 1924.

C. Seaver
H. B. ...
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J. F. ...