

LBM

Decision No. 20628.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PICKWICK STAGES SYSTEM )  
to lease from United Stages, Inc. )  
and the latter to lease to the )  
former all of the operative auto- )  
mobile stage rights of the United )  
Stages, Inc. )

Application No. 13051

BY THE COMMISSION:

ORIGINAL

FIRST SUPPLEMENTAL OPINION

In a supplemental petition filed in the above entitled matter of December 12, 1928, the Railroad Commission is asked to make an order authorizing the transfer of the operative rights of United Stages, Inc. to Pickwick Stages System.

The original decision in this proceeding, No. 17585, dated November 9, 1926, authorized United Stages, Inc. and Pickwick Stages System to execute a lease and option agreement substantially in the same form as that filed with the original application as Exhibit "D", provided that none of the rent which Pickwick Stages System agreed to pay under the terms of the agreement be charged to any asset or operating expense account.

The lease and option agreement between the two companies, dated July 24, 1926, provides for the lease by United Stages, Inc. of all its operative rights to Pickwick Stages System for a period of five years and one day, commencing August 1, 1926 at an aggregate rental of \$150,000.00, payable in monthly installments of \$2,500.00. Upon the termination of the five year period Pickwick Stages System has the option to acquire the rights upon the payment of \$1.00.

It now appears that the two companies desire to cancel the agreement and to make a full and complete transfer of the operative rights heretofore leased to eliminate the necessity of further payments thereunder. It is recited in this connection that all of the outstanding stock of Pickwick Stages System and United Stages Inc. is owned by The Pickwick Corporation, and that United Stages, Inc., the selling corporation, has no debts nor obligations other than as between it and The Pickwick Corporation.

United Stages, Inc. heretofore has disposed of all its assets and has cancelled all of its time schedules and tariffs and has ceased to operate as a common carrier. Upon final transfer of the operative rights, as herein proposed, it reports that it will cease to have any interest whatever in any public utility or automobile passenger stage or truck business. Accordingly it appears to us it no longer will be engaged in owning or operating any business which would subject it to the jurisdiction of the Commission, and the order herein accordingly will authorize it to discontinue and withdraw from the business of a public utility or common carrier.

Pickwick Stages System, in acquiring the operative rights herein authorized transferred, is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited in the number of rights which may be given.

FIRST SUPPLEMENTAL ORDER

Application having been made to the Railroad Commission for authority, as indicated in the foregoing opinion, and the Railroad

Commission being of the opinion that a further hearing in this proceeding is not necessary and that the supplemental petition filed on December 12, 1928 should be granted, as herein provided,

IT IS HEREBY ORDERED as follows;-

1. United Stages, Inc. may transfer to Pickwick Stages System the operative rights now leased to Pickwick Stages System under authority granted by Decision No. 17585, dated November 9, 1926.

2. United Stages, Inc. and Pickwick Stages System may execute an agreement and bill of sale substantially in the same form as that filed with the supplemental petition as Exhibit "A".

3. United Stages, Inc. may discontinue and withdraw from the business of a public utility or common carrier.

4. The authority herein granted is subject to the following conditions;-

a. No permission is hereby given Pickwick Stages System to link up or consolidate the rights, the transfer of which is herein authorized, with its present operating rights.

b. The operative rights herein authorized to be transferred to Pickwick Stages System hereafter shall not be sold, leased, transferred, assigned, hypothecated or discontinued, unless the written consent of the Railroad Commission is first obtained.

c. No vehicle may be operated under the operative rights herein authorized to be transferred unless such vehicle is owned by Pickwick Stages System, or is leased by it under a contract or agreement on a basis satisfactory to this Commission.

The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 28<sup>th</sup> day of December, 1928.

Leon Whisell  
Chairman  
Thomas D. Barrett  
M. J. Cunniff  
Commissioners.