

Decision No. 20652

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 J. HATCH LORD, as seller, for an
 order approving the sale and transfer
 by him of certain automobile stage
 line operating rights of his to
 Motor Transit Company, as buyer; and
 of said Company authorizing it to
 exercise said operating rights as an
 extension of its present stage line
 system; and to assume certain indebtedness
 in connection with said purchase.

ORIGINAL

Application
No. 15289

BY THE COMMISSION -

OPINION and ORDER

J. Hatch Lord has petitioned the Railroad Commission for an order approving the sale and transfer by him to Motor Transit Company, a corporation, of operating rights for an automobile service for the transportation of persons between Pasadena and Pomona and intermediate points, and Motor Transit Company, a corporation, has asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$25,000. Of this sum \$15,000 is declared to be the value of certain equipment and other property and \$10,000 is said to represent the value of intangibles.

The records of the Commission show that J. H. Lord has a unified and consolidated operating right for the transportation by auto stage of passengers and baggage between Pasadena and Pomona and all intermediate points. He has no authority, however, to serve locally between Pomona, La Verne and San Dimas but may serve between San Dimas and points east thereof and points west of San Dimas. Lord has no certificate for the transportation of packages as set forth in Supplement No. 1, C.R.C. No. 6 of his Local Passenger Tariff.

Lord's route is along the Foothill Boulevard between points he is authorized to serve. In the city of La Verne Lord has a definite route as set forth in the decision on Application No.13937,-

"Entering the city of La Verne at the westerly city limits as at present via Third Street, east via Third Street to D Street, south via D Street to Pacific Electric Railway station located at D Street and South Second Street, east via South Second Street to E Street, north via E Street to La Verne Road, thence easterly via La Verne Road to the easterly city limits, returning via reverse of this route."

The above described operating rights were established in the following manner:

(1) By Decision No.8106, dated September 16, 1920, on Application No.5914, S. C. Hamilton and Chas. R. Lusby were granted a certificate for the transportation, as common carriers, of passengers and baggage by auto stage "between Pasadena and Pomona, serving as intermediate points La Verne, San Dimas, Glendora, Azusa and Monrovia, but that it does not require them to serve locally between Pomona, La Verne and San Dimas, and the authority herein contained is granted upon the condition that they do not render such local service but they may furnish service between said three points and Glendora and points west thereof."

(This grant was wholly modified at re-hearing, as set forth in the paragraph next below).

Pacific Electric Railway, one of the protestants in Application No.5914, petitioned for re-hearing in the matter, which was granted. Decision No.2602, dated January 26, 1921, on the re-hearing of Application No.5914, modified the certificate granted, as set forth in the paragraph next above, to read as follows:

"THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by S. C. Hamilton and Chas. R. Lusby of through automobile stage service for the common carriage of passengers and baggage between Pasadena and Pomona, serving as intermediate points La Verne, San Dimas, Glendora, Azusa and Monrovia, but that it does not authorize them to serve locally between Pomona, La Verne and San Dimas, nor locally between Monrovia, Azusa and Glendora; but nothing herein contained shall prevent such through service nor service between points west of Monrovia and points east thereof; nor between San Dimas or points east thereof and points west of San Dimas."

(2) By Decision No.8537, dated January 11, 1921, on Application No.6452, J. H. Lord was authorized to acquire the interest of S. C. Eamilton in the above described operating right.

(3) By Decision No.9402, dated August 23, 1921, on Application No.7107, J. H. Lord was authorized to acquire the interest of Chas. R. Lusby in the above described operating right, making himself sole owner.

(4) Decision No.11955, dated April 24, 1923, on Application No.8795 - J. H. Lord sought to extend his operating right between Pasadena and Pomona by the establishment of local service between Pasadena and Monrovia. The application was denied, the Opinion in this decision stating that a certificate was unnecessary by reason of the fact that applicant's predecessors had been explicitly granted the right to "service between points west of Monrovia." The applicant, however, in this decision was granted permission to file tariffs as set forth in Exhibit "A" attached to the application. Such exhibit shows fares from Pasadena to Pasadena city limits, Baldwin Avenue and Arcadia - Foothill Boulevard. Applicant's C.R.C. No.6 now on file and in effect quotes rates from and to Rincon Washbridge, Baldwin Avenue and Santa Anita Boulevard. (Note:- At the hearing on this application after the applicant's testimony was introduced the protestant, Pacific Electric Railway, withdrew objections upon applicant's stipulation that he would transport no persons west of the Rincon Washbridge and further that he would transport no passengers between points in the city of Pasadena.

(5) By Decision No.12473, dated August 14, 1923, on Application No.9060 J. H. Lord was granted certificate as an extension of his present operating rights and not as a new or separate operating right for "the establishment of the service proposed by applicant herein between Monrovia and Azusa only over and along the Foothill Boulevard." Such proposed service was "That applicant requests permission to extend his present service to that of serving locally the territory between Glendora and Monrovia over and along his present established route."

(6) By Decision No.14243, dated November 8, 1924, on Application No.9914, J. H. Lord was granted a certificate, not as a separate operating right but as an extension of his present operating rights between Pasadena and Pomona for -

"the establishment of the service proposed by said applicant herein between Monrovia and all intermediate points between Monrovia and Azusa and points beyond Azusa, to and including Glendora, and also between Azusa and Glendora and all intermediate points between Azusa and Glendora, over and along the Foothill Boulevard."

Applicant was required to file tariffs of rates and time schedules identical with those filed as Exhibits A and B, attached to the application. No Exhibit B appears. By Decision No.18828, dated September 23, 1927, on Application No.13937, J. H. Lord was authorized to change his route in the city of La Verne as previously set forth in the first paragraph of this memorandum.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted, provided, however, that the order herein shall not be construed as authority to merge or consolidate the rights herein authorized to be transferred with existing operating rights of Motor Transit Company.

Motor Transit Company, a corporation, 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 to the number of rights which may be given.

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

1- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2- Applicant J. Hatch Lord shall immediately unite with applicant Motor Transit Company in common supplement to the tariffs on file with the Commission, applicant Lord on the one hand withdrawing, and applicant Motor Transit Company on the other hand accepting and establishing such tariffs and all effective supplements thereto, excepting rates for transporting express.

3- Applicant Lord shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Motor Transit Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Lord, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Lord, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicant Motor Transit Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 7th day of

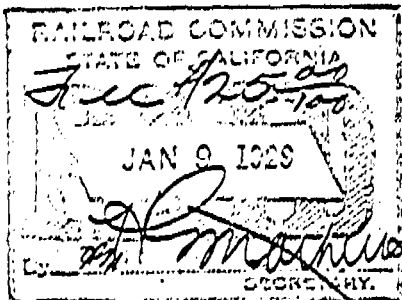
January 1929 - .

Leon White

Ed. J. ...

Shirley ...

M. J. ...
COMMISSIONERS.



File no - 26813