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Decision No. 21455

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA TRANSIT CO. to purchase and Sierra Nevada Stages to sell operative rights for the transportation of persons and property under certificates issued by the California Railroad Commission.

Application No. 15761.

ORIGINAL

Earl A. Bagby, for Applicants.

R. S. Elliott, for Railway Express Agency, Inc., Interested Party.

BY THE COMMISSION:

O P I N I O N

Applicant, California Transit Co., a corporation, in this application seeks approval of the purchase by it of the certificated rights of Sierra-Nevada Stages, a corporation, and the consolidation of the rights of the selling company with those now possessed and exercised by the purchaser.

A public hearing herein was conducted by Examiner Williams at San Francisco.

California Transit Co. now operates a through system of interstate stages between Oakland, Reno and Salt Lake City. It also possesses certificates for the transportation of passengers between Oakland and Sacramento, intrastate via Vallejo. Sierra-Nevada Stages operates intrastate service under certificate between Sacramento and the State line near Floriston, California, and also interstate service between California and Reno, Nevada. Sierra-Nevada Stages

has contracted to sell (Exhibit "A" attached to the application) its certificated rights to the California Transit Co. for the consideration of \$9,908.58. Applicants submitted no satisfactory evidence showing that the \$9,908.58 may be capitalized through the issue of securities. No request is made in this proceeding to capitalize the same. If hereafter the California Transit Co. asks permission to issue stock or evidences of indebtedness against the \$9,908.58 we will expect it to submit evidence to support such request. No equipment is being transferred.

It is the request of applicant that the purchase not only be approved, but that the tariffs as to express and passengers, together with weight limits for express and rules and regulations as heretofore established and now existing on California Transit's general system, be applied to the lines acquired from Sierra-Nevada Stages. According to the testimony of F.M.Ford, of applicant, California Transit Co.'s Tariff Bureau, a comparison of the new rates proposed with the old rates shows a general reduction, with a few exceptions, particularly in express rates, where the larger packages show as much as ten percent reduction. Applicant also seeks authority to substitute for the vehicles now used by Sierra-Nevada Stages its own vehicles of a different type in order to carry its standardization of equipment over the system to be acquired, and also to use the vehicles for intrastate service that it uses for interstate service with the assurance that it has ample surplus equipment at Oakland, Sacramento and Truckee to take care of all the traffic and to care adequately for local service. Applicant, California Transit Co. also seeks permission to establish its rates for newspapers and daily packages as are now established on the rest of its system, such rates not being shown in

the tariff of Sierra-Nevada Stages. It is further requested that all of these qualifications, together with the transfer of ownership, be merged and consolidated with applicant's general system in the State of California.

The particular benefit from the acquisition of Sierra-Nevada Stages by California Transit Co. is to enable through passengers from Oakland to points east of Sacramento, via Colfax and Truckee, to receive transportation without change of cars at Sacramento. This is also true as to the inter-line tickets sold by rail and water carriers in conjunction with Sierra-Nevada Stages, and particularly those sold via California Transit Co. from Vallejo and points intermediate to Sacramento.

T. Finkbohner, Superintendent of operations of both applicant companies; Walter Kempton, District Passenger Agent of California Transit Co.; W. M. Wood, Chief Clerk of Pickwick Stages System, San Francisco, and E. A. Leonard, District Passenger Agent of Pickwick Stages, San Francisco, at San Francisco, each testified as to the demand of the public upon them at various times for through service to points east of Sacramento, particularly those contemplating a trip to the resorts at Lake Tahoe and other places. It was their testimony that tourists unacquainted with the transportation systems expressed dissatisfaction with the trip because of the transfers necessary to bring them to their destinations, and frequently abandoned their plans when advised that through cars could not be operated.

The application was not opposed by any carrier or by the Railway Express Agency, Inc., which appeared but introduced no testimony.

Previous to the hearing, California-Nevada Stages filed a petition in intervention reciting that the acquisition

of the Sierra-Nevada Stages by California Transit Co. made the first name pass into the system of the Southern Pacific Company through a holding company. This intervenor also alleged that Application No. 13891 of Southern Pacific Motor Transport Company, a Southern Pacific subsidiary, has been heard and submitted, and in this application applicant seeks to conduct local service between Sacramento and Roseville, and that should this application be granted, the intervenor will be subjected to competition not now existing, as Sierra-Nevada Stages is restricted from local service between Sacramento and Roseville, including Roseville. It further requests that the hearing herein conducted be postponed and consolidated with Application No. 13891 of Southern Pacific Motor Transport Company. No one appeared to press the petition in intervention, and the Examiner at the proceeding--we believe correctly--overruled the intervention on the ground that the subject matter had received hearing, had been submitted, and was extraneous to the matters in the instant application. The instant application provides solely for the transfer and consolidation of the rights of the Sierra-Nevada Stages with those of California Transit Co. without relieving the purchaser of any of the restrictions heretofore imposed as to service or routings. The question as to whether there shall be an additional local service between Sacramento and Roseville is to be determined at another proceeding regardless of the ownership of any competing transportation service.

After a full review of the testimony presented, we find no reason to deny the application of California Transit Co. and Sierra-Nevada Stages for the approval of the transfer and modification of the rate structure and the class of vehicles op-

erating; and further, for the consolidation of the two lines in order that unnecessary transfer at Sacramento may be avoided by through passengers. An order accordingly will be entered.

CALIFORNIA TRANSIT CO. 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.

O R D E R

A public hearing having been held in the above-entitled proceeding, the matter duly submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that the CALIFORNIA TRANSIT CO., a corporation, be, and it is hereby authorized to purchase and acquire, and SIERRA-NEVADA STAGES, a corporation, is hereby authorized to sell and transfer to California Transit Co. the operating right granted by Sierra-Nevada Stages by Decisions Nos. 16747 and 21394 issued on Application No. 12728

To operate automobile stages for the transportation of passengers and property between Sacramento and Nevada City, serving intermediate points, except locally between Grass Valley and Nevada City, and points between Sacramento and Roseville, including Roseville (except as to such passengers and express as may originate at Roseville destined to points eastward, and passengers and express originating in territory east of Roseville and destined to Roseville), and for the transportation of passengers and express over the Victory Highway between Sacramento and the point where it intersects the California-Nevada State line, serving all intermediate points, except that no local service is herein authorized between Sacramento and Roseville; provided, however, that between Auburn and the State line no

express parcels may be carried weighing in excess of one hundred pounds and that no express service may be given between Auburn and the State line on any equipment other than that regularly used in the regular passenger service, and then only when it can be handled without inconvenience to passengers; and provided further, that stages may be routed temporarily from Truckee to the State line by way of Hobart Mills until the Victory Highway is fully constructed and open for public travel.

IT IS HEREBY FURTHER ORDERED that the operating right herein authorized to be transferred shall be consolidated with the operating rights of the consolidated unified operations of California Transit Co. as established by Decision No. 18249 and subsequent decisions; and

IT IS HEREBY FURTHER ORDERED that the application of California Transit Co. for authority to publish the rules and regulations governing the transportation of passengers, their baggage and express now in effect on its general system as the rules and regulations for the service performed in the territory covered by the certificate herein transferred be, and the same is hereby granted; and

IT IS HEREBY FURTHER ORDERED that the application of California Transit Co. for authority to publish the zone express rates now in effect on its general system as the rates for express to be charged in the territory covered by the certificate herein transferred be, and the same is hereby granted; provided,

That the order herein shall not be construed as authority to alter in any way, except as herein specifically authorized, or eliminate any of the restrictions on the herein described operation between Sacramento and the California-Nevada State line imposed by decisions of the Commission.

And provided further:

1.- That Sierra-Nevada Stages shall withdraw, and California Transit Co. adopt as its own passenger fares now on file with the Railroad

Commission in the name of Sierra-Nevada Stages and make such other tariff filings as are required by the Commission's general orders to cover the transfer and consolidation herein authorized.

2.- That Sierra-Nevada Stages shall withdraw time schedules on file in its name with the Railroad Commission, and California Transit Co. shall file time schedules which shall be satisfactory to the Railroad Commission.

3.- The rights and privileges herein authorized to be transferred 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.

4.- No vehicle may be operated by applicant, California Transit Co., 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.

Dated at San Francisco, California, this 14th
day of August, 1929.

Thos D. Smith

W. J. Con

Leon Whitely

W. J. Con
Commissioners.