

Decision No. 22985

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC GREYHOUND LINES, Inc., a corporation, for an order defining its operative rights and routes for the transportation of passengers, their baggage and express, and to reconsider and amend existing restrictions; to abandon certain operative rights; to definitely establish certain routes for the transportation of passengers, their baggage, and express; and to have issued to it a certificate of public convenience and necessity in lieu of all existing certificates, all involving all of applicant's operative rights in territory southwest of Oxnard and south and east of Los Angeles.

Application
No. 26642

Earl A. Bagby, for Applicant.
Ed Stern, for Railway Express Agency, Inc., Protestant.
Morrison, Hohfeld, Foerster, Shuman & Clark, by
Forrest A. Cobb, for San Diego Electric Railway,
interested party.
C. H. Pennoyer, for Descanso & Alpine Stage Line.
Carl F. Beyorle, for himself, Protestant.
C. T. Helpling (Wanner's Hot Springs).

LOUNTIE, Commissioner -

OPINION and ORDER

The above entitled and numbered proceeding, as amended, said amendments having been filed at public hearing, is an application by Pacific Greyhound Lines, Inc., for an order of the Commission authorizing it to temporarily suspend service over two routes, to reroute certain of its operations, abandon others, and make certain service changes. It also seeks authority to transport express between certain points now served by it, and finally requests the issuance to it of a certificate of public convenience and necessity authorizing it to transport passengers, baggage and express over and along certain definite

routes in the territory south and east of Oxnard and Los Angeles, said certificate to be in lieu of the certificates granted to and the operating rights established by applicant's predecessors in interest through operation prior to May 1, 1917. Authority is also sought to file certain tariffs of rates and rules and regulations standardized in accordance with the rates and rules and regulations in force and effect on the remainder of applicant's system. Authority is also sought to put into effect time schedules covering operations of applicant as proposed in the instant proceeding.

Public hearings were held in Los Angeles, evidence was heard and the matter taken under submission.

Railway Express Agency, Inc., entered a protest against the granting of the right to transport express between points for which, it claimed, authority had not been granted heretofore by the Commission, or established by proper tariff filings in connection with service established through operation prior to May 1, 1917, by predecessors in interest of applicant. Imperial Valley-Los Angeles Express also protested the granting of the express rights sought between points served by it. San Diego County Water Company also appeared as a protestant, its protest being directed to the proposed abandonment of service over the Aguanga and Rincon routes between Temecula and Julian, the route between Julian and Kane Springs and the route between El Cajon and Julian and Warner's Hot Springs.

San Diego Electric Railway Company entered an appearance as an interested party but withdrew when applicant stipulated it would not seek authority to perform local service between La Jolla and San Diego, and San Diego and El Cajon and intermediate points.

On behalf of the applicant Earl A. Bagby, L. D. Jones, T. Finkbohner and Guy Hill, all of the company's personnel, testified as to the conditions on which the application is based.

Witness Bagby's testimony largely related to the necessity for a new certificate covering the operations of his company because of the ambiguities resulting from the acquisition of scores of operating rights granted or established under conditions no longer existing. He testified that the chief aim of the present proceeding was to obtain a certificate authorizing a service alike between all points, and permit operation over new and better routes, as well as to legalize abandonment of certain routes over which no service had been given for some years by applicant's predecessors but which are of record with the Commission as active rights. It was explained by witness Bagby that the difference between actual operations and the operations authorized was discovered during the process of a check of all the rights recently acquired by Pacific Greyhound Lines, Inc. Further, as to the abandonments, the witness declared, and similar statements were made by witnesses Jones and Finkbohner, there was no public need at this time of service over the routes in question.

George Cromwell, Chief Engineer of San Diego County Water Company, a private concern, which owns a resort at Henshaw dam and also Warner's Hot Springs, and Carl F. Byerle, a resort owner, testifying for protestant San Diego County Water Company, based their objection to the abandonment of the Aguanga and Rincon and El Cajon-Julian-Warner's Hot Springs service largely on the fact that considerable development work had been done in the territory traversed by the stage line, that more was to follow and that the service abandonment proposed would leave a large district without public transportation.

With regard to the express rights sought it was stated by applicant that as to the right to transport express between certain of the points now served some doubt exists as to the legality of the operation. A check of the certificates granted to applicant's predecessors in interest, and of the tariff filings made by certain of said predecessors covering service established prior to

May 1, 1917, witness Bagby testified, indicates that at least so far as the right to transport express between many of the points for which legal authority is sought in this proceeding the situation justified the request contained herein. Applicant claims, however, that there is also justification for its contention that the original operations transported express, but due to lack of knowledge of tariff filing requirements in the early days of highway transportation, neglected to make proper filings. Package or express rates, in several instances, were subsequently filed and the express service has been performed at all times, or for a period of 13 years.

Supporting this last contention applicant produced as witnesses three of the original operators, C. F. Boyerle, L. L. Hayes and F. E. Burdette, all of whom testified that prior to May 1, 1917, and subsequent thereto they had transported packages or express on their stages, sometimes making a charge for the service and at others transporting the property as an accommodation. Later, rates for the express service were published.

Applicant also produced nearly 30 witnesses who use and for some time have used the express service and who testified that there exists at this time a need for the express service; that its discontinuance would seriously affect their businesses and the territory involved. By stipulation the testimony of several other shippers was admitted.

In support of their protests Railway Express Agency, Inc., and Imperial Valley-Los Angeles Express presented the evidence of some thirty public witnesses, all users of the rail and truck service operated, respectively, by Railway Express Agency, Inc., and Imperial Valley-Los Angeles Express. In addition, they presented, through company witnesses, exhibits giving details as to the extent of the service performed by each carrier, the commodities transported to and from the points affected by the

instant application, and other matters germane to the issue. The testimony of all protestants' witnesses plainly showed that they were "bothered shippers," the pick-up and delivery and C. O. D. collection methods of protestants finding particular favor in their eyes. Several of the witnesses testified that on a few occasions, in emergencies, they had used the stage line express service.

This proceeding is one of a series of three applications by Pacific Greyhound Lines, Inc., filed in an endeavor to "work out" the scope of operating rights which enter into the Greyhound system of California, a large number of which were established before the enactment of Chapter 213, in 1917, and many of which were granted under conditions which no longer exist, so as to permit of an operation alike between all points served. The Commission has heretofore considered two similar applications by applicant, one covering territory north and east of San Francisco and the other covering the territory between San Francisco and Los Angeles. Each proceeding resulted in the granting of a certificate of public convenience and necessity authorizing Pacific Greyhound Lines, Inc., to operate an automotive passenger stage service for the transportation of passengers, baggage and express, (the latter being limited to packages weighing not more than 100 pounds), between all points to be served, said certificate to be in lieu of all existing rights, many of which were ambiguous and far from meeting service demands based on present day conditions. The new certificates had the further merit of authorizing a standard set of rules and regulations and tariffs based on a common method of computation. The Commission also authorized certain abandonments and route changes and additional rights, the general aim being the establishment of rights which would regulate the performance of a transportation service on the highways alike between all points.

There is little difference in the situation presented by applicant in the two proceedings referred to and the instant matter, except in the matter of the protestants' claims that applicant's express service to and from many Imperial Valley points has been illegally performed, no authority for the service having been obtained (except between certain local points), from the Commission, or established by tariff filings properly establishing prescriptive rights. Applicant frankly admits, by the application itself, the existence of the very obvious flaw and asks, as a remedy, that an in lieu certificate be granted so that the operations performed by its predecessors since 1917 may be continued, basing its request on two grounds, namely,

- a- That the original operators had performed an express service, and that it had been performed prior to May 1, 1917, and subsequent thereto, and
- b- That present day demands of public convenience and necessity require continuance of the service.

Each contention is supported by testimony, that of the pioneer operators as to early day service and that of the shippers now using the service as to the present needs.

Thoroughly reviewing the record in this matter we must conclude that the situation does not warrant an order by this Commission directing a discontinuance of the express service, even though it must be admitted the crude tariff filings of the pioneers, in the light of later day interpretation, leave much to be desired. The express service has been performed for approximately thirteen years, and supporting the request for authority to maintain it is the testimony of more than a score of witnesses, "satisfied shippers," that it fills a present day need.

There will now be considered the matter of the abandonment of service in the territory between El Cajon, Julian, Pine Hills, Kane Springs and Warner's Hot Springs and the service between the last named point and a point near Temecula over the Aguanga and Rincon highways. The abandonment proposed will, as claimed by protestants, leave a large field without public transportation. The record shows, however, that service has not been given over the Rincon highway for some time, that no service was ever performed between Julian and Brawley via Kane Springs and that the service to the north of El Cajon, via Ramona, to Julian and Pine Hills and Warner's Hot Springs and between Temecula and Warner's is not justified by the revenue received. A revenue and traffic check by applicant, shown in Exhibit No.2, shows a per mile revenue considerably below applicant's estimated out of pocket cost of operation of 27 cents per mile. Even in the face of the development activities of San Diego County Water Company, protestant, this revenue is decreasing.

The temporary abandonment of service between Indio and Blythe, for which applicant seeks authority, appears to be justified by the traffic and revenue check shown in applicant's Exhibit No.3. It is proposed to resume service between Indio and Blythe upon the completion of certain highway construction work, which, it is expected, will remedy conditions which make operation at this time not only unprofitable but more or less uncertain.

As to the other changes proposed, and the filing of new tariffs and rules and regulations and time schedules, they should be authorized. The proposed rules and regulations are similar to those now in effect over the remainder of applicant's system and their installation in the territory affected by this proceeding will give to the traveling public in the section of the state

The following form of order is recommended:

ORDER

Public hearings having been held in the above entitled proceeding, an order of submission made and the Commission being fully advised,

IT IS HEREBY ORDERED that the application of Pacific Greyhound Lines, Inc., for an order of the Railroad Commission authorizing the re-routings, consolidation, suspensions, abandonments and service changes and tariff substitutions proposed in the amended application herein be and the same is hereby granted subject, with respect to operations involved in Application No. 15554, to the Commission's order in its Decision on said application, and

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Pacific Greyhound Lines, Inc., of an automotive passenger stage service for the transportation of passengers, baggage and express between and serving the following named termini and all intermediate points, except as herein specifically restricted and limited, over the following described routes:

- 1- Between Los Angeles and San Diego via Whittier Boulevard and the State Highway through Bolvedere Gardens and Fullerton, (serving Whittier and Brea only from the direct route over Whittier Boulevard), Inglewood, Tustin, San Juan Capistrano, Serra, Oceanside, Carlsbad, Del Mar and La Jolla; thence to San Diego either via the main highway through Pacific Beach and Old Town, or optionally, via Mission Boulevard through Ocean Beach, thence via the main highway to San Diego.
- 2- Between Oxnard and Serra via the Malibu Highway to Beach Road, thence either via Beach Road to Colorado Avenue to Ocean Avenue or via Channel Road to Ocean Avenue, thence from Ocean Avenue to the company's Santa Monica State on Santa Monica Boulevard, thence via the main highway through Venice, Playa del Rey, El Segundo, Manhattan Beach, Hermosa Beach, Redondo Beach, San Pedro, Long Beach, Huntington Beach and Newport Beach.

3- Between Los Angeles and Santa Monica - North Bound route - via Los Angeles Street to Arcadia Street to Main Street to Sunset Boulevard, thence on Sunset Boulevard to Cahuenga Boulevard, thence on Cahuenga Boulevard to the company's Hollywood station, thence to Wilcox Avenue to Sunset Boulevard to Highland Avenue, thence on Highland Avenue to Santa Monica Boulevard, thence on Santa Monica Boulevard to Santa Monica.

South bound route - via Santa Monica Boulevard to Highland Avenue, thence on Highland Avenue to Hollywood Boulevard, thence on Hollywood Boulevard to Cahuenga Boulevard, thence on Cahuenga Boulevard to the company's Hollywood station, thence to Wilcox Avenue, thence on Wilcox Avenue to Sunset Boulevard, thence on Sunset Boulevard to Los Angeles Street, thence on Los Angeles Street to the company's Los Angeles station.

4- Between Los Angeles and Long Beach via Sixth Street, Los Angeles, to San Pedro Street, thence on San Pedro Street to Avalon Boulevard, thence on Avalon Boulevard to Florence Avenue, thence on Florence Avenue to Long Beach Boulevard, thence on Long Beach Boulevard to Long Beach.

5- Between Anaheim and Elsinore via the main highway through Olive, Corona and Moorpark.

6- Between Los Angeles and Riverside via Macy Street, Los Angeles, thence on Macy Street to Mission Road, thence on Mission Road to Alhambra Avenue, thence on Alhambra Avenue to Valley Boulevard, thence on Valley Boulevard to Puente through Pomona and thence via the main highway to Riverside.

7- Between San Bernardino and Riverside via Third Street, San Bernardino, to "B" Street, thence on "B" Street to Colton Avenue, thence via the main highway through Colton.

8- Between Riverside and San Diego via the main highway through Box Springs, Perris, Elsinore, Marietta, serving Marietta Hot Springs according to traffic demands, thence via Temecula, thence via the main highway on the north side of San Luis Rey River opposite Bonsall to Bonsall Bridge Junction about three miles west of Bonsall, thence through Vista, Escondido, Poway Corners, Miramar and Old Town.

9- Between Bonsall Bridge Junction and Oceanside via the main direct highway.

10- Between Riverside and Coachella via the main direct highway through Redlands, Beaumont and Banning, thence either via the main highway through Elton and Indio or via the main highway through Palm Springs and Indio.

11- Between Coachella and a point opposite Ehrenberg on the California-Arizona State Line via the main highway through Thermal, Mecca and Blythe.

12- Between Coachella and Yuma Bridge via the State highway south from Coachella through Oasis Ranch and Westmoreland, thence via the main highway through Brawley, Imperial and El Centro, thence via the State highway through Holtville to Yuma Bridge.

13- Between Niland and Brawley via the main highway through Calipatria and the main highway approximately one and one-half miles west of Rockwood.

14- Between El Centro and Calxico via the main highway through Heber.

15- Between San Diego and El Centro via the main highway through La Mesa and El Cajon, and thence via the main direct highway through Coyote Wells.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such a service be and it is hereby granted to Pacific Greyhound Lines, Inc., and said Pacific Greyhound Lines, Inc., is hereby authorized to operate said service as a unified consolidated system, the rights herein issued to be in lieu of and not in addition to operating rights covering the same territory heretofore acquired by Pacific Greyhound Lines, Inc., and its predecessors in interest, and

IT IS HEREBY FURTHER ORDERED that the operating rights granted herein are granted subject to the following restrictions and limitations:

1- Applicant may suspend operation over the highway route between Coachella and a point opposite Ehrenberg on the California-Arizona State Line via the main highway through Thermal, Mecca and Blythe pending improvement of highway conditions, but shall reinstate such service when highway conditions so improve as to justify the operation, or when traffic demands so require, or on supplemental order of the Commission made herein.

2- No passengers, baggage or express shall be transported locally between Los Flores and Long Beach or intermediate points, all inclusive.

3- No passengers, baggage or express shall be transported locally between Los Angeles on the one hand and Long Beach and Newport Beach and intermediate points on the other hand.

4- No passengers, baggage or express shall be transported locally between Los Angeles and Los Flores, and intermediate points.

5- No passengers, baggage or express shall be transported locally between Los Angeles and Santa Ana, or intermediate points, all inclusive.

6- No passengers, baggage or express shall be transported locally between Los Angeles and Redlands or San Bernardino, or intermediate points, all inclusive.

7- No passengers, baggage or express shall be transported locally between San Diego and La Jolla, and intermediate points.

8- No passengers, baggage or express shall be transported locally between San Diego and El Cajon, and intermediate points.

9- No express shall be transported locally between Sandy Corners and Blythe and intermediate points.

10- The operative route and rights between Niland and Calipatria are suspended and are not to be placed in operation except in accordance with the terms and conditions of Decision No.22617 of this Commission.

11- The right to transport express is subject to the restriction that no single package shall be accepted for shipment that weighs in excess of one hundred pounds and all express must be transported on passenger vehicles only, except as to property transported for or through the agency of Railway Express Agency, as to which said restrictions as to weight and vehicle shall not apply.

IT IS HEREBY FURTHER ORDERED that the operating rights granted herein be and they are hereby consolidated with the operating rights of applicant between San Francisco and Los Angeles granted by Decision No.22459 with the understanding that the order herein shall not be construed as a cancellation or annulment of previous consolidation orders of the Commission, as to said rights or orders concerning existing joint or interdivision tariffs or security issues.

IT IS HEREBY FURTHER ORDERED that Pacific Greyhound Lines, Inc., shall:

1- Within a period of not to exceed fifteen (15) days from the date of the order herein file an acceptance of the certificate herein granted, which acceptance shall contain a declaration that the rights herein granted are accepted as rights in lieu of and not in addition to rights heretofore granted to applicant or its predecessors in interest or established by them through operation prior to May 1, 1917.

2- Within sixty (60) days from the date hereof file its tariffs of rates and rules and regulations which shall be identical with the amended tariff of rates and rules and regulations offered by the applicant at the public hearing on these proceedings, or tariff of rates and rules and regulations satisfactory in form and substance to the Railroad Commission, and shall also make such other tariff filings as are necessary or required by General Orders Nos. 79 and 80 of the Railroad Commission to insure full compliance with the order herein.

3- Within sixty (60) days from the date hereof file time schedules covering service herein authorized, which time schedules shall be identical with time schedules offered by applicant at the public hearing on these proceedings, or time schedules satisfactory in form and substance to the Railroad Commission.

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

5- No vehicle may be operated by applicant herein 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.

IT IS HEREBY FURTHER ORDERED that for the general operation of its system, on reconstruction or relocation of highways not affecting intermediate points named in the tariffs of the company, Pacific Greyhound Lines, Inc., may follow the reconstructed or relocated highway.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The above opinion and order are hereby declared to be the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1930.

[Handwritten signatures and initials over horizontal lines]