

Decision No. 23320

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PAUL DERKUM to sell, and PACIFIC
 GREYHOUND LINES, INC., to purchase
 operative rights for the transportation
 of persons and property between
 Bakersfield and Reward via Buttonwillow
 and Mc Kittrick, and of the purchaser
 to consolidate the same with the remainder
 of its system.

)
)
)
)
) Application
 No. 17111
)
)
)

BY THE COMMISSION -

OPINION and ORDER

This proceeding is a joint application by Paul Derkum and Pacific Greyhound Lines, Inc., Derkum asking authority to sell and transfer, and Pacific Greyhound Lines, Inc., authority to purchase and acquire operating rights for an automotive passenger stage service between Bakersfield and Reward. Applicant Pacific Greyhound Lines, Inc., also asks for authority to consolidate the operating rights herein proposed to be transferred with the operating rights granted it by Decision No. 23244 so that the Bakersfield-Reward service may be operated in conjunction with and as part of its general system. The purchaser proposes to charge the same passenger fares that Derkum now charges but asks authority, as to rules and regulations and express and baggage rates, to operate under the rules and regulations and baggage and express rates now in effect on its general system.

The consideration proposed to be paid for the property herein proposed to be transferred is given as \$500., all of which sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established as follows:

By Decision No.8855, issued on Application No.6518, William Giminiani was authorized to operate an automobile stage line "as a common carrier of passengers, baggage and express between Bakersfield and Buttonwillow over the following route: Starting at Bakersfield, thence to Rosedale, thence to Rio Bravo, thence to Bowerbank, thence to Buttonwillow (Miller & Lux Store)." This right was acquired by applicant Derkum under authority of Decision No.14855, issued on Application No.11028. By Decision No.5659, issued on Application No.3756 and No.3757, C. C. Haworth and Harry Hather, co-partners, were authorized to operate a "passenger stage service between Bakersfield and Reward, via Mc Kittrick." By Decision No.8139, issued on Application No.6131, Olive Hather acquired the half interest of Haworth in the last above described right. By Decision No.9042, issued on Application No.6798, R.C.Dear acquired the Hather right. Dear, under authority of Decision No.17243, issued on Application No.13083, transferred the Hather right to Paul Derkum, the Commission, by the same order, authorizing Derkum to consolidate the Giminiani-Dear-Hather rights and to extend said consolidated right to Reward.

It thus appears from the records of the Commission that as to the transportation of baggage and express the rights described are not clear as to the exact authority granted. Nor are they clear as to the service to and from intermediate points. It is apparent from the tariffs on file with the Commission, however, that all intermediate points between Bakersfield and Reward have been served by Derkum and his predecessors in interest and that passengers, baggage and express, the latter without limit as to weight or vehicle, have been transported. In Decision No.17243 the Commission makes the following declaration and order:

"THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Paul Derkum of an automobile service for the transportation of passengers, baggage and express between the towns of Mc Kittrick and Reward, said service to be operated as an extension to and as a part of a service between Bakersfield and Mc Kittrick and intermediate points, given under the operating rights herein authorized to be consolidated, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be, and the same hereby is granted to Paul Derkum,

The circumstances and record justify compliance with the request of applicant Pacific Greyhound Lines, Inc., for an order of the Commission defining the rights herein proposed to be transferred. Therefore, said rights are hereby declared to be rights to transport passengers, baggage and express, with no limit as to weight of package or vehicle as to express between Bakersfield and Reward and intermediate points via Rosedale, Rio Bravo, Bowerbank, Buttonwillow and Mc Kittrick.

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.

Pacific Greyhound Lines, Inc., 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 Paul Derkum be and he is hereby authorized to sell and transfer to Pacific Greyhound Lines, Inc., operating rights for an automobile service for the transportation of passengers, baggage and express, the transportation of express to be without limit as to vehicle or weight, between Bakersfield and Reward and intermediate points, via Rosedale, Rio Bravo, Bowerbank, Buttonwillow and McKittrick, and Pacific Greyhound Lines, Inc. is hereby authorized to purchase and acquire said operating rights, to consolidate them with the operating rights created and established by Decision No.23244, and to operate said service between

Bakersfield and Reward and intermediate points in conjunction with and as part of its main system and under the rates, rules and regulations governing said system now on file with the Railroad Commission, excepting only the passenger fares; as to such fares, the fares now charged by Derkum shall be adopted.

IT IS HEREBY FURTHER ORDERED that the order herein shall be subject to the following conditions:

- 1- The transportation of baggage, as to rates, weight and size, shall be in accordance with the rules and regulations as to baggage now in effect on the general system of Pacific Greyhound Lines, Inc., and heretofore approved by this Commission.
- 2- 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.
- 3- Applicant Derkum shall immediately withdraw rates and time schedules published in his name covering service between Bakersfield and Reward and intermediate points, and Pacific Greyhound Lines, Inc., shall immediately publish in its own name such tariffs and time schedules as are required by the Commission's General Orders, said tariffs and time schedules to fully conform with the terms of the order herein.
- 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 Pacific Greyhound Lines, Inc., 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 26th day of

January, 1931.

C. J. [Signature]
Leon [Signature]
[Signature]
[Signature]
James G. [Signature]
COMMISSIONERS.