

Decision No. 24874

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
PACIFIC ELECTRIC RAILWAY COMPANY, a
corporation, for a motor carrier
transportation agent's license.

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) Application No. 17718
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In the Matter of the Application of
MOTOR TRANSIT COMPANY for a motor car-
rier transportation agent's license.

)
) Application No. 17719
)
)

Frank Karr, by R. E. Wedekind, for the Applicants
H. C. Lucas, for Pacific Greyhound Lines
E. E. Bennett, for Interstate Transit Line
and Union Pacific Stage Company

WHITSELL, Commissioner:

O P I N I O N

Pacific Electric Railway Company, a corporation, and
Motor Transit Company, also a corporation, have petitioned the
Railroad Commission for "Motor Carrier Transportation Agent's"
licenses. Each asks that it be licensed under the terms of
Chapter 638, Statutes of 1931.

Pacific Electric designates the depot in the Pacific
Electric Building, Los Angeles, its subway terminal depot in
Los Angeles, and depots or offices in 56 communities as offices
for the sale of transportation. Motor Transit Company seeks
a license for each of 15 offices or depots. In each case each
office is in charge of a salaried employee of applicant.

A public hearing was held in Los Angeles, the matters were consolidated, evidence heard and an order of submission made.

The record shows that applicants are engaged in the transportation business, operating under the jurisdiction of the Railroad Commission in Southern California, one entirely motor bus and the other rail and bus. Each sells the tickets of the other between points in California, in many instances occupying the same depots. Each sells transportation between points, one of which is beyond the borders of the state, the actual transportation being provided by interstate carriers, and it is for authority to continue in the business of selling such transportation that the instant applications have been filed.

It does not appear to me to be necessary to discuss the fitness of applicants to receive the licenses prayed for. They are well established and responsible carriers far removed from the type of "transportation agent" whose activities and lack of responsibility led to the passage by the legislature of Chapter 638. Designed to protect the public from the nefarious practice of irresponsible carriers, or agents, the new law imposes certain burdens upon the responsible carriers themselves. They, too, must, under the law, post bonds and obtain licenses if they sell or provide transportation over uncertificated lines or where one of the points involved is without the state. Such a service is well within the purview of Chapter 638.

Section 5 of Chapter 638 provides, in part:

"* * * that no license may be issued unless the applicant shall first provide a good and sufficient bond, policy of insurance or indemnity in favor of the people of the State of California which, among other conditions that may be prescribed by the railroad commission, shall assure faithful performance of any contract or agreement of transportation negotiated by or entered into by the licensee."

By resolution of the Railroad Commission, adopted August 10, 1931, the amount of the bond has been fixed at \$10,000.

Both of the applicants have declared their willingness to file such bond, contending, however, that they should not be required to file a bond for each of their employees, pointing out that all of their agents at the branch offices named are under salary, and do not receive any compensation other than said salary for the sale of the transportation for which a license is sought and that, therefore, a single bond filed by each of the corporate applicants, who, admittedly, sell for compensation, should suffice. With this view we are in accord, as it is apparent that an employee of a licensed agent, under such circumstances, is not

"* * * a person, firm or corporation who, for compensation, sells or offers for sale, or negotiates for, and/or holds himself out as one who sells, furnishes or provides as principal or agent, transportation for persons over the public highways of this state, * * *."

within the meaning of Section 1 of Chapter 638. The fact, as shown by the testimony, that the applicants herein have certain contractual arrangements regarding the sale of each other's tickets and the use of depot facilities does not appear to be of moment in these proceedings.

Section 1 of Chapter 638, among other exceptions, provides that the act shall not apply to the "movements of persons over highways or parts of highways not served by certificated carriers." In the same section it is specifically declared that an agent is a person, firm or corporation selling or providing transportation

"* * * over the public highways of this state, when such transportation is furnished, or is offered or proposed to be furnished by other than a carrier holding a valid certificate of public convenience and necessity issued by the railroad commission of the State of California permitting of such carrier

transporting persons over such highways or any of them and between the points for which such transportation is sold, or, to the border line of the State of California when one of such points is without the state."

In this proceeding each of the applicants seeks a license to sell transportation over the line of Pickwick Greyhound, which is an interstate carrier serving in connection therewith and under authority of a certificate certain points in California east of Yermo over the Arrowhead Trail, crossing the state line near Wheaton Springs. Between the terminal of Motor Transit line (certificated) at Oro Grande, and Yermo there is a short stretch of road not served by a certificated line, though Pickwick operates over it. Pickwick also operates an interstate service over Santa Fe trail, crossing the state line near Needles, no part of which is served by a certificated line. Over each route, however, Pickwick transports persons between "points one of which is without the state." It does not appear to me that because a part of a highway, or all of it, is not served by a certificated line, though operated over by an uncertificated carrier transporting passengers to a point beyond the state border, there is justification for a conclusion that an agent selling or providing transportation over such a highway should be relieved of the necessity of obtaining a license. Such an interpretation would defeat the real aim of Chapter 638.

I am of the opinion that the licenses prayed for should be issued. It is contemplated that procedure and regulations governing transportation agents will be clarified by the promulgation of a general order by the Commission in the near future. Needless to say, the regulations established by such general order will be applicable to the present applicants.

I recommend the following form or order:

O R D E R

A public hearing having been held in the above entitled matters and an order of submission made,

IT IS HEREBY ORDERED that the Secretary of the Railroad Commission of the State of California issue to Motor Transit Company, a corporation, a license to engage in the business of Motor Carrier Transportation Agent, as such is defined by Chapter 638, Statutes of 1931, at 202 East Fifth Street, Los Angeles, California, and to maintain branch offices at each of the following locations:

<u>Streets and Number</u>	<u>City</u>	<u>County</u>
	Arrowhead Lake	San Bernardino
217 S. Los Angeles Street	Anaheim	Orange
409 West Main Street	El Monte	Los Angeles
24 Locust Avenue	Long Beach	Los Angeles
202 East 5th Street	Los Angeles	Los Angeles
211 South Laurel	Ontario	San Bernardino
	Pine Knot	San Bernardino
295 South Main	Pomona	Los Angeles
105 East Citrus Avenue	Redlands	San Bernardino
731 Market Street	Riverside	Riverside
3rd and Arrowhead	San Bernardino	San Bernardino
3rd and Spurgeon	Santa Ana	Orange
109 North Washington	Whittier	Los Angeles
24 East Valley Boulevard	South Alhambra	Los Angeles

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission of the State of California issue to Pacific Electric Railway Company, a corporation, a license to engage in the business of Motor Carrier Transportation Agent, as such is defined by Chapter 638, Statutes of 1931, at Pacific Electric Building, Sixth and Main Streets, Los Angeles, California, and to maintain branch offices at each of the following locations:

Alhambra
Alta Loma
Arlington
Artesia
Azusa
Beverly Hills
Brea
Burbank
Claremont
Colton
Compton
Corona
Covina
Culver City
East Long Beach
El Monte
El Segundo
Etiwanda
Fontana
Fullerton
Gardena
Garden Grove
Glendora
Highland
Hollywood
Huntington Beach
Inglewood
La Habra

Long Beach
Los Angeles (Subway Terminal)
Monrovia
Ocean Park
Orange
Palms
Pasadena
Pomona
Redondo Beach
Rialto
Riverside
San Bernardino
San Dimas
San Pedro
Santa Ana
Santa Monica
Sierra Madre
Torrance
Upland
Van Nuys
Venice
Watson
Watts
West Alhambra
West Hollywood
Whittier
Wilmington
Yorba Linda

provided that Motor Transit Company and Pacific Electric Railway Company shall each "provide a good and sufficient bond, policy of insurance or indemnity in favor of the people of the State of California which * * * shall assure faithful performance of any contract or agreement of transportation negotiated by or entered into by the licensee," the form and substance of said bond to be as follows:

"KNOW ALL MEN BY THESE PRESENTS: That _____, of California, as Obligor, and _____, surety company authorized to do business in the State of California, as Surety, are held and firmly bound unto the people of the State of California, in the sum of ten thousand dollars (\$10,000), lawful money of the United States, for the payment of which well and truly made, we hereby bind ourselves, our heirs, executors, successors and assigns jointly and severally firmly by these presents:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS the above named Obligor has applied for a license

as a Motor Carrier Transportation Agent, under and in pursuance of the provisions of Chapter 638, Statutes 1931, of the State of California, being "An Act to define Motor Carrier Transportation Agent; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said Act, and penalties for violation thereof." (Approved June 5, 1931), and under said Act said Obligor is required to give a bond as in said Act prescribed:

NOW, THEREFORE, if the above bounden Obligor shall faithfully perform each, any and all contracts or agreements of transportation negotiated by or entered into by the Obligor as licensee, then his obligation to be void, otherwise to remain in full force and effect.

The Surety shall have the right to cancel this bond at any time by giving fifteen days written notice of its desire so to do by registered mail, addressed to the Railroad Commission of the State of California at its office; and the Surety shall not be liable for any acts committed by the Obligor after the expiration date of such cancellation notice, but such cancellation shall in no respect affect its liability for acts committed prior thereto.

The aggregate liability of the Surety under this bond shall in no event exceed the penalty of this bond.

IN WITNESS WHEREOF, the Obligor has signed and his Surety has caused its name and corporate seal to be affixed by its duly authorized representative this _____ day of _____, 1931.

Obligor

Surety,"

and provided, further, that said Motor Transit Company and said Pacific Electric Railway Company shall each pay to the Secretary of the Railroad Commission of the State of California the sum of seven dollars and fifty cents (\$7.50), balance due as a fee for a license covering an entire year.

IT IS HEREBY FURTHER ORDERED that under the licenses hereby ordered issued to said Motor Transit Company and said Pacific Electric Railway Company transportation may be sold only over the following lines:

Pacific Greyhound Lines, Inc.,
Pickwick Greyhound Lines, Inc.,
Imperial Bus Lines,

each of whom transports passengers from points in California
to points without the state.

The above Opinion and Order are hereby approved and
ordered filed as the Opinion and Order of the Railroad Commis-
sion of the State of California.

Dated at San Francisco, California, this 4th day
of January, 1932.

C. Leavy
J. W. Whidell
W. H. Carr
M. B. Harris
Fred G. Stewart
Commissioners