

Decision No. 24788.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC GREYHOUND LINES, INC., a)
 corporation, to sell and EARL C. COOK)
 to purchase certain operative rights)
 for the transportation of passengers,)
 baggage and express between Greenfield)
 Corners and Taft; Taft and Maricopa;)
 Taft and Lost Hills via Mc Kittrick)
 and Bakersfield and Reward via Button-)
 willow, and of the purchaser for a)
 certificate of public convenience and)
 necessity between Bakersfield and)
 Greenfield Corners.)

Application
 No. 18050.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Pacific Greyhound Lines, Inc. has made application to sell and transfer certain operating rights granted to it by Decision No. 23244, on Application No. 16989, and also by Decision No. 23320, on Application No. 17111, to Earl C. Cook which rights are for the operation of automobile stages for the transportation of passengers, baggage and express between the following points:

By Decision No. 23244:

- a- Between Greenfield Corners and Taft via the main highway through Panama, Old River, Western Water Co. and Ford City.
- b- Between Taft and Maricopa via the main highway.
- c- Between Taft and Lost Hills via the main highway through Fellows, Shale, Mc Kittrick and Reward.

By Decision No. 23320:

- d- Between Bakersfield and Reward and intermediate points, via Rosedale, Rio Bravo, Bowerbank, Buttonwillow and Mc Kittrick.

The consideration, as stated in the agreement between the parties, marked Exhibit "A", attached to the application, is nominal, being only for the sum of \$1.00 and includes no equipment. According to Exhibit "B", attached to the application, applicant Cook intends to operate three 6-cylinder 12-passenger bus type vehicles and to maintain the schedules and rates now in force and effect upon the Pacific Greyhound Lines, Inc. operations.

In addition, applicant Cook seeks a certificate of public convenience and necessity for the transportation of passengers, baggage and express between Bakersfield and Greenfield Corners and asks that this right be consolidated with all the other rights, thus making a unified local operation between Bakersfield and points fixed in the other rights. All the routes are now being operated over except the one between Lost Hills and Reward which is under suspension due to lack of patronage.

Applicant Pacific Greyhound Lines, Inc. alleges that it is transferring the operations to applicant Cook because they are exclusively local operations and do not produce revenue sufficient to warrant their continuance and that losses sustained are a burden upon the remainder of the system. Exhibit "C", attached to the application, shows revenues varying from .094 cents to .152 cents per mile which may be compared with the nominal cost of operation of approximately 25 cents per mile.

It is applicant's belief that Mr. Cook having for many years operated the lines which are sought to be transferred and being thoroughly conversant with all the communities served, may be able by local schedules to and from Bakersfield, connecting with applicant Greyhound's system at Greenfield Corners and Bakersfield, to bring the operation to a profitable basis.

The rights sought to be transferred all represent active rights established many years ago and for a long time profitable.

Applicant Cook was one of the early and continuous operators until the rights were sold to the Greyhound system. They represent a connection by two routes between Bakersfield and the West Side Oil Fields which in times of activity require numerous schedules. At present the patronage is insufficient to justify more than three schedules on any service and on most of the schedules there is no Sunday service.

The other carriers in this field are Sunset Railway and the Southern Pacific Company, each of whom has withdrawn objection to the granting of the application and waived its rights under Section 50 $\frac{1}{2}$ of the Public Utilities Act. Pacific Greyhound Lines, Inc. also waives its rights under this section.

Paragraph 8 of this agreement provides, among other things, that the rights transferred "shall not be sold or leased by the party of the first part either in whole or in part without giving the party of the second part the right to purchase or lease upon terms similar to those of the proposed sale or lease, or upon terms agreed upon by the parties hereto." Other provisions require the purchaser to occupy the terminals of seller, furnish connecting schedules, joint rates, etc. We think it is unnecessary to do more in passing upon this contract than to put the purchaser and seller upon notice that while provisions of the contract may be an obligation between the parties themselves, the Commission will not recognize such features as having any effect in modifying or affecting the jurisdiction of the Commission to approve any future conveyance or to regulate the rates, service, schedules, terminals and/or finances of the operations.

We believe this is a matter in which a public hearing is not necessary and that the application should be granted.

Earl C. Cook 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

Pacific Greyhound Lines, Inc., seller, and Earl C. Cook, purchaser, having made application to sell and transfer a certain portion of the operative rights granted Pacific Greyhound Lines, Inc. by Decision No. 23244, on Application No. 16989, and Decision No. 23320, on Application No. 17111, as set forth in the preceding opinion,

IT IS HEREBY ORDERED that the 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 Pacific Greyhound Lines, Inc. shall immediately unite with applicant Earl C. Cook in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Pacific Greyhound Lines, Inc. on the one hand withdrawing, and applicant Earl C. Cook on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Pacific Greyhound Lines, Inc. shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Earl C. Cook shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Pacific Greyhound Lines, Inc. which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Pacific Greyhound Lines, Inc., or time schedules satisfactory to the Railroad Commission.

Earl C. Cook having made application for a certificate of public convenience and necessity to operate automobile stage service for the transportation of passengers, baggage and express between Bakersfield and Greenfield Corners and intermediate points over and along the following route:

Via state highway between termini and to consolidate such right with the rights to be acquired from Pacific Greyhound Lines, Inc.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require service between Bakersfield and Greenfield Corners as set forth in the application, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to Earl C. Cook, subject to the following conditions:

- 1- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- 2- Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders.
- 3- Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules, according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory 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 him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that the certificate herein granted be and the same hereby is consolidated with all the rights herein authorized to be transferred from Pacific Greyhound Lines, Inc. for passenger, baggage and express service into one unified system, to Earl C. Cook, subject to the following restrictions:

1- Between Taft and Maricopa, or points intermediate thereto, no passengers nor baggage will be transported, and no express shall be transported except newspapers, bread and bakery products and express of Railway Express Agency, Inc., and milk and cream and empty containers of such commodities when being transported to or from a rail junction point in connection with rail transportation thereof.

2- Between Taft and Fellows, or points intermediate thereto, no passengers nor baggage shall be transported locally, and no express shall be transported locally except newspapers, bread and bakery products and express of Railway Express Agency, Inc., and milk and cream and empty containers of such commodities when being transported to or from a rail junction point in connection with rail transportation thereof.

3- The operative rights and route between Reward Junction and Lost Hills are suspended, but such service shall be reinstated when traffic demands so require, or on supplemental order of the Commission made herein.

Dated at San Francisco, California, this 23rd day of

May 1932.

Ch. Seaver
Leon A. Wiley
W. J. Lee
W. B. Gannon
Frederic P. Stewart
COMMISSIONERS.