

Decision No. 24864

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
PICKWICK-GREYHOUND OF CALIFORNIA, LTD.,
a corporation, for modification and
interpretation of Decision No. 24,400,
and for certificate of public convenience
and necessity.

ORIGINAL

Application No. 18139.

Libby & Sherwin, for applicant.
E. E. Bennett, for Los Angeles & Salt Lake
Railroad Company.
E. T. Lucey, for The Atchison, Topeka & Santa
Fe Railway Company.
F. D. Howell, for Motor Transit Company,
interested party.

CARR, Commissioner:

O P I N I O N

Applicant requests an order "modifying and interpreting" Decision No. 24400 to "clearly state" that in granting the application under Application No. 16733 Pickwick-Greyhound of California, Ltd. acquired the right to transport passengers and freight "from Los Angeles and points intermediate to San Bernardino, to Oro Grande, and from Oro Grande and points intermediate to San Bernardino, to Los Angeles and points intermediate San Bernardino to Los Angeles."

The application in which Decision No. 24400 was granted requested an order permitting the sale of an operative right described in the application and in the contract, copy of which was attached thereto and to the instant application. The order in question merely granted the application, subject to certain conditions and restrictions unimportant here.

The operative right or rights involved are described in the contract as covering "the operation of an automobile stage

passenger, baggage and express line between San Bernardino, California, and Oro Grande, California, and intermediate points, under and as described in Decision No. 17,120, made upon Application No. 13,005, under date of July 17th, 1926, as amended by Decision No. 18,749, rendered upon Application No. 11,502, under date of Aug. 25th, 1927, and by Decision No. 21,300, rendered upon Application No. 13,690, under date of June 28th, 1929, all being decisions of the Railroad Commission of the State of California."

Following Decision No. 24400, the applicant tendered for filing schedules in consonance with the construction of the order herein sought, which schedules were rejected by the Rate Department of the Commission as covering more territory than the order justified. This is the occasion for the instant application, which was heard and submitted on June 2, 1932. No claim was made that evidence then adduced justified the granting of a certificate of public convenience and necessity if the interpretation sought was deemed not to be justified.

The basic operative right was granted to Hodge & Santen, co-partners, on September 7, 1923, by Decision No. 12583. By succeeding orders the certificate was slightly enlarged and the sale of the Santen interest to Hodge approved. By Decision No. 17120, of date July 17, 1926, the acquisition of this right by Motor Transit Company was authorized, subject to the restriction that the Transit Company was not "to link up or merge the operating right" * * * * with the "operating rights now owned by Motor Transit Company."

On August 25, 1927, by its Decision No. 18749, the Commission authorized Motor Transit Company to establish certain

uniform regulations for the carriage of baggage and express.
(Re Motor Transit Company, 30 C.R.C. 312). Thereafter, and on December 28, 1929, by its Decision No. 21500, the Commission permitted the consolidation of various operative rights of Motor Transit Company, including the consolidation of the old Hodge & Santen right with the rights under which it was operating its so-called Eastern Division. (Re Motor Transit Company, 33 C.R.C. 322.)

An examination of the record does not justify the conclusion that the Commission by its Decision No. 24400 authorized the transfer of any operative right other than the right to operate between Oro Grande and San Bernardino and intermediate points. The authority granted the Motor Transit Company to consolidate operating rights was an authority peculiar to that Company under the special conditions bearing upon the public convenience and necessity for combining and consolidating its several operations. It did not in itself enlarge the local Hodge & Santen right so that its transfer to the applicant here authorized a consolidated operation as between it and the applicant's rights between San Bernardino and Los Angeles. If the public convenience and necessity demands a consolidation of such rights appropriate application should be made and be supported by pertinent evidence.

The following form of order is recommended:

O R D E R

A public hearing having been had in the above entitled matter,

IT IS HEREBY ORDERED that the application be and it is

hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of June, 1932.

C. J. Sewer
L. W. Whisenand
M. A. Linn
W. B. Harris
Fred G. Stebbins
Commissioners.