

Decision No. 25170

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 Nevada County
 Narrow Gauge Railroad, a corporation,
 to purchase certain operative rights
 for the transportation of passengers,
 baggage and express between Auburn,
 and Nevada City.

} Application
 } No. 18390
 }

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Pacific Greyhound Lines, Inc. has petitioned the Railroad Commission for an order approving the sale and transfer by it to Nevada County Narrow Gauge Railroad, a corporation, of an operating right for an automotive service for the transportation of passengers and property between Auburn and Grass Valley and Nevada City, and Nevada County Narrow Gauge Railroad has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1.00. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No. 23244, dated December 31, 1930, on Application No. 16989, and is a consolidated unified part of Pacific Greyhound Lines system.

Applicant Nevada County Narrow Gauge Railroad alleges that its passenger business between Colfax, its southern terminus, and Grass Valley and Nevada City has declined to the point where abandonment of the rail facilities may be necessary soon. By acquiring the automotive line between Auburn and Grass Valley-Nevada City and effecting economies of operation it is hoped to preserve its passenger traffic should rail passenger service be discontinued. Pacific Greyhound Lines alleges that its operation of the automotive line between the points barely makes its out-of-pocket operating cost. As evidence of this, Exhibit "C", attached to the application, shows the revenue during June and July 1932 to be \$1687.63 and the cost of operation \$1648.21. Applicants will maintain close stage connections at Auburn. Through rates via Auburn are to be established. By the transfer all transportation service to Grass Valley and Nevada City will be under one ownership and management.

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.

Nevada County Narrow Gauge Railroad 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 the above entitled 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 Nevada County Narrow Gauge Railroad 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 Nevada County Narrow Gauge Railroad 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 Nevada County Narrow Gauge Railroad shall immediately file, in duplicate, in its 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.
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 Nevada County Narrow Gauge Railroad 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 12th day of September, 1932.

C. L. Scoville
Leon Whiteley
W. A. Linn
W. B. Hayes
Fred G. Stewart
COMMISSIONERS.