

Decision No. 68457

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
G & W Stage Company to sell, and of)
the Motor Transit Company to purchase) Application No. 6754.
and exercise certain automobile stage)
line operating rights.)

H. W. Kidd, for Applicant.
Frank Kerr for Pacific Electric Railway
Co., protestant.
J. W. Barbee for Riverside & San Jacinto
Stage Line.
E. T. Lucey for Atchison, Topeka & Santa
Fe Railway Co.
R. L. McNitt for Pasadena & Pomona Stage
Line, protestant.
T. F. Fitzgerald and F. E. Watson for
Southern Pacific Company.

BY THE COMMISSION.

O P I N I O N

Applicants G & W Stage Company, a corporation, and
Motor Transit Company, a corporation, have petitioned the Rail-
road Commission for an order approving the sale and transfer
of certain auto stage operative rights between Los Angeles and
Gilman's Relief Hot Springs, now possessed by Applicant G & W
Stage Company, to Applicant Motor Transit Company for a cash
consideration of \$10,000.00.

Public hearings on this application were conducted by
Examiner Satterwhite at Los Angeles. The matter was duly sub-
mitted and is now ready for decision.

The operative rights proposed to be transferred are
as follows:

First: The operative rights originally acquired by Golden
State Auto Tours Corporation, a corporation, by reason of opera-

tion by said Corporation between Los Angeles and Gilman's Relief Hot Springs in good faith on May 1, 1917, being the same operating rights heretofore authorized by this Commission (Decision No. 7086 dated February 5, 1920, on Application No. 5285) to be transferred by said Golden State Auto Tours Corporation to said G. & W. Stage Company.

Second: The operative rights of said G & W Stage Company of an automobile stage line between San Jacinto and Soboba Hot Springs for the transportation of persons and express as heretofore authorized by this Commission in its Decision No. 7691 dated June 8, 1920, on Application No. 5746.

The record shows that the total issued and outstanding corporate stock of the said G & W Stage Company consists of four shares only, being the four shares originally issued to the four incorporators of said corporation and that one share each is now owned and held by O. R. Fuller, H. W. Kidd, Rex Hardy and Carrol Roberts. The G & W Stage Company has offered to sell to said Motor Transit Company all of said G & W Stage Company's operating rights as described in said application for the sum of \$10,000.00 and the said Motor Transit Company has accepted the said offer and agreed to purchase the said automobile stage lines subject to the approval of this Commission. This proposed purchase price of \$10,000.00 is the amount which said O. R. Fuller paid for the said four shares of the corporate stock of the said G & W Stage Company, and it appears that Mr. Fuller will not, nor will anyone else, realize any profit in connection with this proposed sale nor will any commissions or brokerage be paid thereon.

The evidence shows that the Motor Transit Company is financially able to operate the said service and to serve adequately the travelling public and that it expects to use in the said

operation rolling stock and equipment of the same general type as used in its other operations.

The granting of this application was protested by the Pacific Electric Railway Company and J. H. Lord, doing business under the name and style of the Pasadena-Pomona Stage Line, each of whom filed written protest.

The Pasadena-Pomona Stage Line is operating an authorized stage line over the Foothill Boulevard between Pasadena and Pomona.

The Pacific Electric Railway Company, among other operations, maintains and operates a line of railroad between Los Angeles and Uplands and other points.

Both of these protestants allege that they are operating an adequate service and do a substantial local business between many intermediate places, towns and cities in the territory between Los Angeles and Uplands and that the applicant G & W Stage Company now diverges from its lawful route and also does a local business to and between intermediate points in excess of and in violation of any lawful rights heretofore exercised by said Golden State Auto Tours Corporation on May 1, 1917, and subsequent thereto, to the detriment of the service and business of said protestants. Protestants request that in any order authorizing the proposed sale and purchase that the Commission inquire into and finally determine and establish the precise character, scope and extent of the operating rights belonging to the G & W Stage Company which it is sought herein to have transferred.

This Commission being of the opinion that it is right and proper, expedient, and in the interest of sound regulation, has received evidence, both oral and documentary, for the purpose

of ascertaining and thereafter exactly defining what operative rights the Golden State Auto Tours Corporation held by reason of operations in good faith on May 1, 1917, and thereafter maintained until the said sale thereof to applicant G & W Stage Company.

The decision in this matter has been withheld pending the decision which has now become final in Case No. 1442 entitled A. G. Watson vs. White Bus Company, a corporation, et al., filed with this Commission May 7, 1920. The Supreme Court in a review of this case said in part as follows:

"... It is the contention of petitioners that the operation of through service prior to May 1, 1917, necessarily gave them a vested right to maintain the local service in question and this right having been conferred by the Legislature the Commission was not only without power to deprive them thereof but exceeded its jurisdiction in determining and directing that only such service as was in actual operation prior to said date could be continued without a certificate of public convenience and necessity. This contention cannot be maintained. To hold that by the operation of a through line on that date, petitioners were given a franchise to operate to any extent that they, in their judgment might see fit, limited solely by the restriction that the operations must be between the same termini and over the same route, would be to materially decrease the power of the Commission over these lines and thus overlook the primary purpose of the enactment which was to give to the Commission in the interest of the public the fullest power possible to regulate the operation of auto stage companies."

The record shows that there is little or no conflict as to the original route followed by the Golden State Auto Tours Corporation between Los Angeles and Gilman's Relief Hot Springs; and from all the evidence in this proceeding the Commission hereby finds that the Golden State Auto Tours Corporation was actually operating in good faith on May 1, 1917, over the following route between Los Angeles and Gilman's Relief Hot Springs: Leaving Los Angeles at Fifth and Main Streets, thence north on Main Street to the Plaza, thence past the County Hospital to the public highway known as Huntington Drive, thence passing through Oneonta Park,

Arcadia, and Monrovia over and along Huntington Boulevard to the Foothill Boulevard near Azusa, thence passing through Glendora, Claremont and Uplands over and along the Foothill Boulevard to the Ontario-San Bernardino Boulevard, thence through Cucamonga, Etiwanda and Rialto to San Bernardino over and along the Ontario-San Bernardino Boulevard and thence over Colton Avenue to Colton, thence over Colton Avenue to Iowa Avenue, thence along Iowa Avenue, thence over Box Spring Grade to Alessandro, thence over the public highway through Perris, Hemet and San Jacinto to Gilman's Relief Hot Springs in Riverside County.

The evidence shows that the Golden State Auto Tours Corporation made periodic or irregular departures from their regular route above described by passing over and along Tenth Street in Claremont and Uplands, but we find as a fact that these departures were such as the law allows.

The question of the character and extent of the rights of the Golden State Auto Tours Corporation to engage in intermediate service between its terminals of Los Angeles and Gilman's Relief Hot Springs must be determined by what business the company was actually doing on May 1, 1917, and what service it had undertaken in good faith to render and was holding itself out to render to the public and had thereafter maintained in good faith up to the time of the said transfer of its operative rights to the said G & W Stage Company.

The records in evidence in this proceeding show that three tariffs, together with certain unimportant supplements thereto, were filed with this Commission by the Golden State Auto Tours Corporation covering its service over the route above described, viz: C.R.C. No. 1 effective March 7, 1917; C.R.C. No. 2 effective March 21, 1917, and C.R.C. No. 3 effective April 1, 1918.

A study of these tariffs together with time schedule No. 3 effective April 26, 1917, indicates that on May 1, 1917, a local service was operated between Los Angeles and San Bernardino to the towns of Glendora, Claremont and Uplands, Cucamonga, Etiwanda and Rialto. However, on April 1, 1918, by the filing of said tariff C.R.C. No. 3 all intermediate service between Los Angeles and San Bernardino was cancelled and abandoned except to the town of Uplands. The purpose and intent of the Golden State Auto Tours Corporation when it filed its tariff of fares C.R.C. No. 3 to abandon any local service it may have been handling between Los Angeles and San Bernardino, is clearly shown and established by the testimony of Cynthelia I. Kneffler, a witness called by the protestants. Mrs. Kneffler had been associated with the office management of the Golden State Auto Tours Corporation from April 1917 to September 1917, when she became its General Manager and Vice President, and acted in that capacity until the sale of the company's operative rights to the G & W Stage Company. The testimony of this witness shows without contradiction that from the beginning of its operations the Golden State Auto Tours Corporation operated a through sight-seeing service from Los Angeles to San Jacinto and catered primarily to and solicited only through business; that its constant policy and practice was the operation of a through service to San Bernardino and San Jacinto and points intermediate between San Bernardino and San Jacinto; that passenger touring cars with a seating capacity of 7 or 8 were the type used and generally were filled on leaving Los Angeles with through passengers. The testimony shows that local business to and from points intermediate between Los Angeles and San Bernardino was practically ignored, and was not at any time solicited and not carried at all unless there happened to be a vacant seat.

Glendora was the only regular stopping place out of Los Angeles with a depot to which tickets were occasionally sold, but none could be purchased there. Local passengers were carried occasionally if seats were available from Los Angeles to points west of Glendora for the Glendora rate of \$1.00. It further appears that without the consent or knowledge of the company the drivers from time to time, if vacant seats existed, carried passengers for short hauls between points intermediate to Los Angeles and San Bernardino.

The following excerpts from the testimony of Mrs. Knief-ler show quite clearly the character and scope of this company's operations. She testified in part as follows:

"It was our policy to send out full loads because the cars want through to San Jacinto".

"We did not take the short hauls and did not hold ourselves out to do it because we could not do it part of the time, and so we did not solicit to do it any of the time".

"The idea of the Golden State was to operate over the shortest possible mileage between here (Los Angeles) and San Bernardino, because they were interested in San Bernardino and not the intermediate points".

"We then filed a schedule for Glendora when we found it was an uneconomical thing to do, an unsatisfactory thing to do, to have them change in San Bernardino, and proposed to run these cars from San Bernardino into Los Angeles so we could be in closer touch with all the cars every day. We then cancelled the tariffs to Glendora. We carried the passengers to Glendora if there was room, but we did not want to be compelled to, for the business was greatly increasing in carrying directly from here (Los Angeles) to Gilman's Relief Hot Springs, which was really our only money-making point".

The record moreover shows that newspaper advertisements, placed only in papers on the route at San Bernardino and points east, offered solely through touring car service.

The Commission is of the opinion and hereby finds as a fact from all the evidence in this proceeding that the Golden State Auto Tours Corporation was on and prior to May 1, 1917, actually operating in good faith automobiles for the transportation of passengers and their baggage as a common carrier for compensation over the route hereinabove particularly described between the termini of Los Angeles and Gilman's Relief Hot Springs and serving only such intermediate points as are shown and designated on its tariff C.R.C. No. 2 effective March 21, 1917, and its time schedule No. 3 effective April 26, 1917, each on file with this Commission.

The Commission further finds as a fact from all the evidence in this proceeding that the Golden State Auto Tours Corporation at the time of the sale of its said operative rights to the G & W Stage Company authorized by this Commission in its Decision No. 7086, decided February 5, 1920, had cancelled and abandoned its service to certain intermediate points between Los Angeles and San Bernardino on its said route and was actually operating in good faith at the time of said transfer over said route the service as shown and designated by its tariff C.R.C. No. 3 effective April 1, 1918, on file with this Commission; that is to say, said Golden State Auto Tours Corporation was actually operating in good faith on February 5, 1920, an automobile passenger service as a common carrier between the termini of Los Angeles and Gilman's Relief Hot Springs and serving only the intermediate points of Uplands, San Bernardino, Allesandro, Perris, Hemet, and San Jacinto.

O R D E R

Public hearings having been held in the above entitled proceeding, testimony and other evidence having been received and briefs filed, the matter having been duly submitted and the Commission being fully advised and basing its order on the findings of fact as set forth in the preceding opinion,

IT IS HEREBY ORDERED,

I. The Railroad Commission hereby approves the sale and transfer from the G & W Stage Company to the Motor Transit Company of the following described operative rights for and in consideration of a cash payment of \$10,000.00.

- (a) The right to operate automobiles for the transportation of passengers and their baggage as a common carrier for compensation over the following route between the termini of Los Angeles and Gilman's Relief Hot Springs: Leaving Los Angeles at Fifth and Main Streets, thence north on Main Street to the Plaza, thence past the County Hospital to the public highway known as Huntington Drive, thence passing through Oneonta Park, Arcadia, and Monrovia over and along Huntington Boulevard to the Foothill Boulevard near Azusa, thence passing through Glendora, Claremont and Uplands over and along the Foothill Boulevard to the Ontario-San Bernardino Boulevard, thence through Cucamonga, Etiwanda and Rialto to San Bernardino over and along the Ontario-San Bernardino Boulevard and thence over Colton Avenue to Colton, thence over Colton Avenue to Iowa Avenue, thence along Iowa Avenue, thence over Box Springs Grade to Alessandro, thence over the public highway through Perris, Hemet and San Jacinto to Gil-

man's Relief Hot Springs in Riverside County, and to serve only the intermediate points of Uplands, San Bernardino, Alessandro, Perris, Hemet and San Jacinto.

- (b) The operative rights of the G & W Stage Company of an automobile stage line between San Jacinto and Soboba Hot Springs for the transportation of persons and express as heretofore authorized by this Commission in its Decision No. 7691 dated June 8, 1920, on Application No. 5746.

II. That the amount to be paid for the purchase of the said operative rights herein described shall not be considered as a measure of value of said operative rights before this Commission or any other authority for rate fixing purposes or for any purpose other than the transfer herein referred to.

III. Applicant G & W Stage Company will be required to cancel immediately all tariffs and time schedules now on file with this Commission and Motor Transit Company will be required to immediately file with this Commission ^{a Tariff identical with said} Tariff C.R.C. No. 3 effective April 1, 1918, and a time schedule identical with said time schedule No. 3 effective April 26, 1917, or to adopt as its own the aforesaid tariff and time schedule each as heretofore filed by said Golden State Auto Tours Corporation, and said tariff shall contain the same rates as heretofore in effect therein.

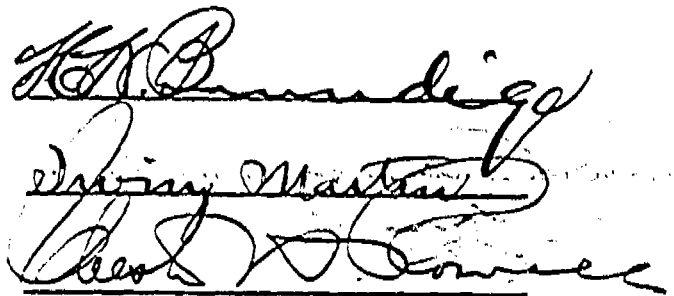
IV. Motor Transit Company will be required to immediately file with the Commission tariffs and time schedules or to adopt as its own the tariffs and time schedules, as heretofore filed by said G & W Stage Company in connection with its said operative rights between San Jacinto and Soboba Hot Springs, all of said tariffs to contain the same rates as heretofore in effect and covered by tariff filed by said G & W Stage Company.

V. No authority is hereby conveyed for the extension or expansion of any operative rights beyond those heretofore held by applicant G & W Stage Company and no authority is hereby given to merge and consolidate the said G & W Stage Company's franchises and operation with that of the Motor Transit Company's system of stage lines or to make the said G & W Stage Company's routes a portion of said Motor Transit Company's general system.

VI. No vehicle may be operated under this authority for transfer by Motor Transit Company 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.

VII. The transfer of operative rights hereinabove authorized and the required cancellation of tariffs and time schedules by applicant G & W Stage Company and the filing of new tariffs and time schedules by applicant Motor Transit Company shall be made not later than thirty days from the date of the order herein.

Dated at San Francisco, California, this 23rd day of November, 1922.



Commissioners.