

MM-Feb. 3, 1920.

ORIGINAL

Decision No. 7086

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN RE Application of the GOLDEN STATE)
 AUTO TOUR CORPORATION and the G. & W.)
 STAGE COMPANY, a corporation, for trans-)
 fer of certain franchise rights from the) Application No. 5285.
 GOLDEN STATE AUTO TOUR CORPORATION to the)
 G. & W. STAGE COMPANY, a corporation.)

BY THE COMMISSION.

O R D E R

GOLDEN STATE AUTO TOUR CORPORATION, a corporation,
 and G. & W. STAGE COMPANY, a corporation, have petitioned the Rail-
 road Commission for an order approving the sale and transfer of a
 certain automobile stage line, operating between the City of Los
 Angeles and Gilman's Relief Hot Springs, Riverside County; Golden
 State Auto Tour Corporation requesting authority to sell and trans-
 fer and G. & W. Stage Company, a corporation, desiring to purchase,
 acquire and hereafter operate the stage line now operated by the
 Golden State Auto Tour Corporation. G. & W. Stage Company also
 asks permission to issue at par \$18,000.00 of stock for the follow-
 ing purposes:-

- \$10,000 to acquire four automobiles,
- 3,000 for working capital, and
- 5,000 to acquire from Golden State Auto Tour Corporation certain permits and franchises.

The rights and privileges, transfer of which are herein requested, are to be transferred in accordance with an agreement or bill of sale, a copy of which is attached to the application in this proceeding.

The rights and privileges, transfer of which are herein proposed, are those acquired by the Golden State Auto Tour Corporation by reason of having been operating in good faith on May 1, 1917, which was the date recognized by the Legislature in the passage of Chapter 213, Laws of 1917, as that upon which operators in good faith were not required to secure a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political sub-divisions through which the route passed.

We are of the opinion that this application covers matters upon which a public hearing is not necessary and that the application for the transfer of operative rights should be granted.

As to the request for the issuance of capital stock, Section 52 of the Public Utilities Act reads in part as follows:-

"The Commission shall have no power to authorize the capitalization of the right to be a corporation or to authorize the capitalization of any franchise or permit whatsoever, or the right to own, operate or enjoy any such franchise or permit in excess of the amount (exclusive of a tax or annual charge) actually paid to the State or a political sub-division thereof, as a consideration for the granting of such franchise, permit or right."

We are of the opinion that this portion of Section 52 of the Public Utilities Act applies to transportation companies as well as to public utilities generally, and that the Commission under the showing made by G. & W. Stage Company cannot authorize it to issue \$5,000.00 of stock to acquire the so-called permits and franchises.

IT IS HEREBY ORDERED that the application for the transfer of the operative rights of the Golden State Auto Tour Corporation to the G. & W. Stage Company, a corporation, be and the same hereby is granted, subject to the following conditions:-

(1) Applicant, Golden State Auto Tour Corporation, will be required to immediately cancel all tariffs and time schedules now on file with the Railroad Commission, such cancellation to be made in accordance with the provisions of General Order No. 51, and other regulations of the Railroad Commission.

(2)-Applicant, the G. & W. Stage Company, a corporation, will be required to file in its own name, tariffs and time schedules, or to adopt as its own, all tariffs and time schedules of the Golden State Auto Tour Corporation as now filed with this Commission; all rates or fares to be the same as those now filed with the Railroad Commission by Golden State Auto Tour Corporation.

(3)-The rights and privileges, transfer of which are hereby authorized, may not again be transferred nor assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been secured.

(4)-No vehicle may be operated under this authority to transfer by applicant, the G. & W. Stage 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.

IT IS HEREBY FURTHER ORDERED that G. & W. Stage Company be, and it is hereby, authorized to issue and sell at not less than par on or before August 15, 1920, \$13,000.00 par value of common capital stock, and use \$10,000.00 of the proceeds from said stock to acquire automobiles and \$3,000.00 for working capital; provided -

That, G. & W. Stage Company will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this Order.

IT IS HEREBY FURTHER ORDERED that the issue of \$5,000.00 of stock to C. W. Willis, or his assigns, by G. & W. Stage Company in payment for the franchise rights referred to in the petition herein be, and it is hereby, denied.

Dated at San Francisco, California, this 5th day of February, 1920.

Edwin C. Edgerton
H. D. Leland
Frank R. Brown
H. B. Brundage

Commissioners.