

Decision No. 27880

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
PACIFIC GREYHOUND LINES, INC., a  
corporation, for authority to trans-  
port express between San Francisco  
and Santa Rosa via San Rafael and  
Petaluma. )  
Application  
No. 19773

H. C. Lucas, for Applicant.

David B. Fyfe, Jr., for Petaluma and Santa Rosa Express,  
and Sausalito-Mill Valley and San Francisco  
Express Company, Protestants.

BY THE COMMISSION -

OPINION and ORDER

Applicant operates a statewide bus service for the transportation of passengers, baggage and express under authority of this Commission, except for a few distances where it is restricted from carrying express. One of the restrictions contained in Decision No. 23244, on Application No. 16989 (consolidation), is as follows:

"7. Between San Francisco and Sausalito no passengers or baggage shall be transported locally, and between San Francisco and San Rafael and intermediate points via Sausalito whether via San Anselmo or Greenbrae, and between Ignacio and Santa Rosa and intermediate points, via Petaluma, no express, except newspapers, is to be transported."

By Decision No. 26596, dated December 4, 1933, on Application No. 18959, applicant was authorized to transport express between Sausalito and Alto Wye as a part of its service to Tiburon and Belvedere in lieu of boat service.

Applicant now asks, in effect, authority to carry express from Alto Wye to San Rafael and from Ignacio to Santa Rosa, when same originates at San Francisco or other points on its entire system.

A public hearing was conducted at San Rafael by Examiner Williams, at which the matter was submitted for decision.

Applicant produced a number of witnesses from San Rafael, Petaluma and Santa Rosa. They were mostly persons engaged in the automobile business and particularly expressing need of quick delivery of auto parts and accessories from San Francisco; florists, a newspaper publisher, etc. Many letters and petitions were filed representative of the same need. In addition, applicant introduced testimony by its local agents and supervisors as to demands for such service by the public.

Northwestern Pacific Railroad, in writing, waived protest. No protestant appeared at the hearing except Robert G. Anderson, representing the Sausalito-Mill Valley and San Francisco Express Company, certificated to transport freight between San Francisco and San Rafael and intermediate points, and Petaluma and Santa Rosa Express, an express carrier, through which protestant ships by rail from San Rafael to points north. His objection was principally as to San Rafael and south thereof. He stated that his truck operation is twice daily between San Francisco and San Rafael,- that Marine Service Corporation has three services, one by boat and truck combined; Railway Express Agency has five (5) daily, with three (3) "on call," over the electric and steam rail service and twelve (12) daily services via the ferry to Sausalito. Of all these services he was the sole protestant alleging that further diversion of the traffic might impair his ability to continue operations to San Rafael.

Applicant now has the right to serve between San Francisco and San Rafael and Santa Rosa and intermediate points, via Oakland, Vallejo, Sonoma and Ignacio. Three services daily are operated. They are not used by applicant's witnesses because of the long and infrequent schedule. T. Finkbohner, Superintendent of Transportation of applicant, testified that applicant maintains ten direct schedules each way daily between San Francisco and Santa Rosa, via San Rafael, and that at least two hours' reduction in time, over the Vallejo route, will result from direct express service. There was also proof that shippers at Healdsburg and Ukiah desire service to and from San Rafael and Petaluma.

Applicant presented no evidence of public need south of San Rafael. It appears that the services named by Mr. Anderson are adequate for Sausalito and points intermediate to San Rafael. There is affirmative proof that a large portion of the shipping public at termini and intermediate points desires to utilize the frequent, fast service of applicant. Applicant's service is distinct from the others in that it makes no local deliveries except at its stations. Other services have local pickup and delivery as an advantage.

Careful weight of the evidence indicates that the application should be granted, except between San Francisco and points south of San Rafael, including Sausalito. An order accordingly will be entered.

Pacific Greyhound Lines, Inc. 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of service for the transportation of express between San Francisco and Santa Rosa and all intermediate points, except between San Francisco, Sausalito and points to, but not including, San Rafael, on the stages of applicant over and along the following route:

Via Ferry between San Francisco and Sausalito and  
via State Highway between Sausalito and Santa Rosa,  
via either Greenbrae or San Anselmo; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to Pacific Greyhound Lines, Inc., subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. The certificate herein granted is subject to the restriction that no single package shall be accepted for shipment that weighs in excess of one hundred (100) pounds, and all express must be transported on passenger vehicles only, except as to property transported for or through the agency of Railway Express Agency, Inc., and milk and cream and empty containers therefor when being transported to or from a rail junction point in connection with rail transportation thereof, to which restrictions as to weight and vehicle shall not apply.
3. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from date hereof and on not less than five (5) days' notice to the Commission and the public a revision of its Local, Joint and Interdivisional Express Tariff No.2-11, C.R.C. No.5, removing the restriction covered by Exception No.4, as herein modified, on fifth page of revised Page 50.

IT IS HEREBY FURTHER ORDERED that the certificate herein granted is hereby merged and consolidated with the rights heretofore granted applicant by Decision No.23244, on Application No.16989, and supplementary and amendatory orders thereto, but is not in lieu of, nor amendatory to, the rights granted by Decision No.26596, on Application No.18959, which rights, as therein granted, are to continue over the Sausalito-Tiburon-Belvedere operations of applicant.

IT IS HEREBY FURTHER ORDERED that Restriction No.7 in Decision No.23244, on Application No.16989, be and it hereby is amended by striking therefrom <sup>all except</sup> the following:

"7. Between San Francisco and Sausalito no passengers or baggage shall be transported locally \* \* \* \*,"

which sentence shall remain as a restriction.

Dated at San Francisco, California, this 8<sup>th</sup> day of April, 1935.

Leon Whiteley  
M. A. Paine  
M. B. Lamm  
N. H. Lamm  
Frank R. Lamm  
COMMISSIONERS.