

Decision No. 23056

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BEVERLY GIBSON, to sell, and of PACIFIC
 GREYHOUND LINES, INC., a corporation,
 to purchase the right to operate an auto
 stage line for the transportation of
 passengers, baggage and express as a
 common carrier for compensation between
 Sacramento and Winters, California, and
 intermediate points, together with certain
 property used in connection with the
 operation and maintenance of said auto
 stage line.

ORIGINAL

Application
No. 20682

BY THE COMMISSION:

O P I N I O N

Beverly Gibson has petitioned the Railroad Commission for an order authorizing the sale and transfer by him to Pacific Greyhound Lines, Inc., of operating rights as a common carrier for the automotive transportation of passengers, baggage and parcels between Sacramento and Winters, and Pacific Greyhound Lines, Inc., has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder. The sale and transfer to be in accordance with an agreement a copy of which marked Exhibit "E" 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 Forty Thousand Dollars (\$40,000). Of this sum Twenty-five Hundred Dollars (\$2500) is alleged by the applicants to be the value of the equipment and

Thirty-seven Thousand Five Hundred Dollars (\$37,500) is alleged to be the value of the intangibles.

The operating rights herein proposed to be transferred are separate operating rights, one being created by Decision No. 7179, dated February 27, 1920 in Application No. 4632, the other by Decision No. 14739, dated April 4, 1925 in Application No. 10960. Subsequently, by Decision No. 17342, dated September 17, 1926 in Application No. 13134, Beverly Gibson was authorized to acquire the operative rights in question with no authority for their consolidation.

The application herein for the authority requested is somewhat out of the ordinary request and a short history of its development seems pertinent. On May 21, 1930, Beverly Gibson, one of the applicants herein, filed with the Railroad Commission application No. 16564 in which Beverly Gibson requested the authority of the Railroad Commission to sell and transfer to Pickwick Stages System, a corporation, predecessor in interest to Pacific Greyhound Lines, Inc., the operative rights involved herein. Neither Pickwick Stages System nor Pacific Greyhound Lines, Inc., joined in the application. At the time of the filing of Application No. 16564, there was pending before the Commission Application No. 16490 which requested the Commission to authorize Pickwick Stages System to transfer its operative rights and properties to Pacific Greyhound Lines, Inc.. Applicant Beverly Gibson, in Application No. 16564, requested that the transfer of the property of the Pickwick Stages System to Pacific Greyhound Lines, Inc. be expressly conditioned upon the inclusion of the purchase price in the liabilities of Pickwick Stages System assumed by Pacific Greyhound

Lines, Inc. and, further, upon condition that Pacific Greyhound Lines, Inc. assume the obligation of the contract between Beverly Gibson and Pickwick Stages System.

The Commission by its Decision No. 23010, dated October 27, 1930, as amended by Decision No. 23446, dated February 24, 1931, both in Application No. 16564, authorized Beverly Gibson to transfer on or before October 1, 1931 to Pacific Greyhound Lines, Inc., the operating rights and property involved herein.

At the time of and subsequent to the issuance of the above mentioned decisions, a controversy existed between applicant Beverly Gibson and applicant Pacific Greyhound Lines, Inc., and the transfer of the operating rights and property as authorized by the Commission was never consummated, and the authority therefor has long since expired. As the result of a recent settlement, the controversies existing between the applicants have been terminated and it is now the purpose and desire of both of the applicants herein to effect the immediate transfer of the rights and properties as mentioned and described hereinabove.

This does not appear to be a matter in which a public hearing is necessary and an order authorizing the transfer sought 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

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 for any purpose other than the transfer herein authorized.
2. Applicant Beverly Gibson shall within twenty (20) days after the effective date of the order herein unite with applicant Pacific Greyhound Lines, Inc., in common supplement to the tariffs on file with the Commission, covering service given under the certificate, herein authorized to be transferred, applicant Gibson withdrawing and applicant Pacific Greyhound Lines, Inc. accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Gibson shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Pacific Greyhound Lines, Inc. shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant Gibson which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Gibson 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 obtained.
5. No vehicle may be operated by applicant Pacific Greyhound Lines, Inc. 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.
5. The authority herein granted to sell and transfer the rights and property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 17th day of
August, 1936.

W B Harris
Leon C. Whisely
M A Cur
Walter H. ...
Frank R. Devine
COMMISSIONERS