

Decision No. 29607.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 PACIFIC GREYHOUND LINES, INC., a cor-
 poration, to establish an optional
 route between the East Bay Traffic Dis-
 tribution Structure and Richmond, via
 the East Shore Highway.

Application No. 20904.

H. C. Lucas, for applicant.

McCarthy, Richards and Carlson, by T. K. McCarthy,
for Key System, protestant.C. E. Brown, for San Francisco and Napa Valley
Railroad, interested party.

WHITSELL, COMMISSIONER:

O P I N I O N

Pacific Greyhound Lines, Inc., now known as Pacific
 Greyhound Lines, on December 5, 1936, filed its application
 seeking:

1. A certificate of public convenience and necessity
 to operate automotive stages between:
 - (a) The East Bay traffic distribution structure
 (junction of State Highway Routes 5 and 69),
 in the City of Oakland, County of Alameda, and
 North El Cerrito (55th Avenue and San Pablo
 Avenue), County of Contra Costa, California,
 along the so-called East Shore Highway (State
 Highway Route No. 69).
 - (b) West El Cerrito (junction of State Highway Route
 69 and Panhandle Boulevard), and Richmond (23rd
 Street and McDonald Avenue), via Panhandle Boule-
 vard, Pullman Avenue and 23rd Avenue, serving all
 intermediate points, all within the County of
 Contra Costa.

2. Authority to consolidate the certificate herein prayed for with remainder of applicant's system.

A public hearing was held on this matter in San Francisco on March 2, 1937, at which time the matter was taken under submission.

Under certificates granted by Decision No. 23244 on Application No. 16989 and supplemental decisions thereto, applicant now operates its lines between various points in the State of California, including a route between Sacramento and Vallejo and intermediate points on the one hand, and San Francisco on the other, via the vehicular ferries across San Francisco Bay. Under certificate granted by Decision No. 29242 on Application No. 19743 and supplemental decisions thereto, applicant was authorized to operate over the San Francisco-Oakland Bay Bridge between San Francisco and Oakland as an alternate to its ferry route and to consolidate this line with its existing operations.

Applicant desires to operate over the lines involved herein so that it may route equipment through from Vallejo, Sacramento or other points to the north to San Francisco via Richmond and thus avoid the necessity of traversing San Pablo Avenue through Albany, Berkeley, Emeryville, and Oakland, which is a heavy traffic artery. Certain schedules of applicant from points to the north operate direct from or to San Francisco without passing applicant's Oakland depot located at 20th Street and San Pablo Avenue. The record shows that these operations would be materially benefited by routing over the East Shore Highway. Those schedules which operate via Richmond (23rd Street and McDonald Avenue) would naturally be benefited by operating along 23rd Street, Pullman Avenue, and Panhandle Boulevard to East Shore Highway instead of along the present route via McDonald Avenue and San Pablo Avenue.

The granting of this application was protested by the Key System on the ground that applicant should not be allowed to transport local passengers between San Francisco and the East Bay district within the territory described in Exhibit "E" (which is sometimes referred to as "reserved territory"), attached to and made a part of the agreements of March 6, 1936, between the California Toll Bridge Authority and the Interurban Electric Railway Company, and between the California Toll Bridge Authority and the Key System.

Under date of February 17, 1937, the California Toll Bridge Authority advised the Commission, by letter, that it had acted upon the application of Pacific Greyhound Lines, Inc., to operate certain of its bus lines over the San Francisco-Oakland Bay Bridge, with the right to pick up passengers within the territory which is defined as "reserved territory," shown on said Exhibit "E" and that after considering the entire matter the Authority had concluded that it had no objection to the issuance by the Commission of its certificate or certificates of necessity and convenience authorizing the Pacific Greyhound Lines to establish route or routes crossing the San Francisco-Oakland Bay Bridge, provided that each such certificate of necessity and convenience contained the following condition:

This certificate is granted subject to the express condition that Pacific Greyhound Lines shall not transport local passengers over said bridge, except in equipment at the time being used primarily for the transportation of passengers other than local passengers. The term "local passengers" as used herein shall be deemed to mean passengers carried and transported upon or across said bridge, who have both origin and destination within the territory described in Exhibit "E" attached to and made a part of the agreements of March 6, 1936, between the California Toll Bridge Authority and Interurban Electric Railway Company, and between California Toll Bridge Authority and Key System.

After a review of the record I am convinced that the authority herein sought should be granted, provided, however, that the

transporting of local passengers within the "reserved area" shown on said Exhibit "E" should conform to all the conditions prescribed by the Toll Bridge Authority.

Pacific Greyhound Lines 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.

The following form of Order is recommended.

O R D E R

A public hearing having been held and the matter having been duly submitted,

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the operation of an automotive transportation service by Pacific Greyhound Lines between the East Bay distribution structure in the City of Oakland, County of Alameda, and the City of Richmond and the City of El Cerrito, County of Contra Costa, as alternative routes, described as follows:

- (a) Between the East Bay distribution structure (junction of State Highway Routes 5 and 69), in the City of Oakland, County of Alameda, and North El Cerrito (55th Avenue and San Pablo Avenue), in the County of Contra Costa, and operating along East Bay Highway (State Highway Route 69).
- (b) Between West El Cerrito (junction of State Highway Route 69 and Panhandle Boulevard), and Richmond (23rd Street and McDonald Avenue), and operating along Panhandle Boulevard, Pullman Avenue and 23rd Street, all within the County of Contra Costa, California.

Said routes are shown on the map (Exhibit "A") attached to and made a part of the application.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service is hereby granted to Pacific Greyhound Lines, subject to the following conditions:

- (1) Said certificate shall be consolidated with and subject to the same restrictions applying to existing certificates of Pacific Greyhound Lines, Inc., heretofore granted in Decision No. 23244 on Application No. 16989 and supplementary decisions and Decision No. 29242 on Application No. 19743 and supplementary decisions.
- (2) This certificate is granted subject to the express condition that Pacific Greyhound Lines shall not transport local passengers over said bridge, except in equipment at the time being used primarily for the transportation of passengers other than local passengers. The term "local passengers" as used herein shall be deemed to mean passengers carried and transported upon or across said bridge, who have both origin and destination within the territory described in Exhibit "E" attached to and made a part of the agreements of March 6, 1936, between the California Toll Bridge Authority and Interurban Electric Railway Company, and between California Toll Bridge Authority and Key System.
- (3) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- (4) Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
- (5) Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this Order, on not less than five (5) days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

(6) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

(7) No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 22nd day of March, 1937.

Walter Mason
Leon Whittell
Stuart R. Hill
Robert W. Hill
Ray L. Riden
Commissioners.