

Decision No. 28984

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFIC ELECTRIC RAILWAY COMPANY, a
corporation, for permission to sell
and assign, and of M. B. MARTINEZ,
doing business as Upland-Ontario
Motor Coach Line, to acquire certain
motor coach line operating rights
between Upland and Ontario and in-
termediate points.

Application No.
21223.

ORIGINAL

BY THE COMMISSION:

O R D E R

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the sale and transfer by it to M. B. Martinez, doing business as Upland-Ontario Motor Coach Line, of an operating right for an automotive service for the transportation of passengers between Upland and Ontario; and M. B. Martinez, doing business as Upland-Ontario Motor Coach Line, has petitioned for authority to purchase and acquire said operating right, and to hereafter operate thereunder; the sale and transfer to be in accordance with an agreement, a copy of which is attached to the application and identified as Exhibit "A". The consideration to be paid for the property herein proposed to be transferred is given as One (\$1.00) Dollar.

The operating right herein proposed to be transferred was created by Decision No. 24854, Dated June 13, 1932, in Appli-

cation No. 17984, and the route is described as follows:

From Pacific Electric depot in Upland on Second Avenue between C and D Streets, south on Second Avenue to Ninth Street, west on Ninth Street to Euclid Avenue, thence south on Euclid Avenue to intersection of Euclid Avenue and Emporia Avenue in Ontario, returning via reverse of above route.

We are of the opinion that this is a matter in which a public hearing is not necessary, and that the application should be granted.

M. B. Martinez, doing business as Upland-Ontario Motor Coach Line, 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 as to the number of rights which may be given.

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 any other purpose other than the transfer herein authorized.
- (2) Applicant, Pacific Electric Railway Company, shall within twenty (20) days after the effective date of this order, unite with Applicant, M. B. Martinez, in common supplement, to the tariffs on file with the Commission covering service given under Certificate herein authorized to be transferred; applicant, Pacific Electric Railway Company, on the one hand, withdrawing, and applicant, M. B. Martinez, on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

- (3) Applicant, Pacific Electric Railway Company, shall within twenty (20) days after the effective date of this order, withdraw time schedules filed in its name with the Railroad Commission; and applicant, M. B. Martinez, shall, within twenty (20) days after the effective date of this order file in duplicate, in his own name, time schedules covering service heretofore furnished by applicant, Pacific Electric Railway Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant, Pacific Electric Railway Company, or time schedules satisfactory to the Railroad Commission.
- (4) The rights and privileges herein authorized may not be sold, leased, transferred, or assigned, or service thereunder discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- (5) No vehicle may be operated by applicant, M. B. Martinez, unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of July, 1937.

Walter H. Jones

Frank R. Newman
Harold A. Crawford

COMMISSIONERS