

Decision No. 20205

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of AIRLINE BUS COMPANY for a )  
certificate of public convenience )  
and necessity to operate a passenger )  
and baggage service from San Francisco, )  
as the point of origin, to San Francisco, )  
as the point of destination, via )  
Sacramento, Auburn, Placerville, Sonora )  
and San Mateo and intermediate points. )

7/21/37  
Application No. 20445

Avery J. Howe and Norman H. Robotham,  
for applicant.

E. C. Lucas and H. D. Richards for  
Pacific Greyhound Lines, Inc.,  
interested party.

WHITSELL, COMMISSIONER:

O P I N I O N

This application for a certificate of public convenience and necessity to operate an automotive sight-seeing service as a common carrier to points in the "Mother Lode" Country from San Francisco and Sacramento, as points of origin, and return to San Francisco and Sacramento, as points of destination, was originally filed by Joseph Miller, operating under the fictitious name and style of Airline Bus Company. Subsequently there was filed an amended and supplemental application substituting Norman E. Robotham in the place of Joseph Miller, as applicant, adding additional and optional side trips and limiting the point of origin and destination to San Francisco only.

A public hearing in this matter was held at San Francisco on September 8, 1937, at which time the matter was submitted and is now ready for decision.

Applicant testified that he proposes to render a common carrier automotive "all expense" sight-seeing service for the transportation of passengers and their baggage from San Francisco, as the point of origin, to San Francisco, as the point of destination,

via Sacramento, Auburn, Coloma, Placerville, Sonora, Knight's Ferry and Stockton. Optional side trips are proposed by applicant from Plymouth to Fiddletown; Sutter Creek to Jackson, via Volcano; Angel's Camp to Calaveras Big Trees, via Murphy's and Moaning Caves; Sonora and Jamestown, via Sawmill Flat, Columbia and Shaw's Flat.

Applicant does not propose to render any service locally between any two or more points intermediate between termini.

There was further testimony by applicant to show that the cost of making trips by various branch line services from San Francisco to the several towns on said "Mother Lode" is so prohibitive that it virtually isolates this section of California from the tourist trade; that there exists a constant demand for tours to this section of the State with a minimum of inconvenience and expense. The record further shows that, at the present time, there is no comparable common carrier service over the proposed route and that tourists generally prefer an all-expense tour, personally conducted.

The service, according to applicant, will not be inaugurated until April 3, 1938, and will then be operated on the basis of two trips per week over said routes. The trip, as proposed, will consume approximately three (3) days from its time of departure from San Francisco terminus until its return thereto including overnight stops at Placerville and Sonora.

Applicant testified that he was able to fully finance the proposed service and that he intended to use, in the beginning, one, eleven passenger sedan with Fitzjohn Body, and would have immediately available, if necessary, a motor coach of larger seating capacity in addition to the sedan.

Representatives of the State Chamber of Commerce, Wells Fargo Bank Museum, Sutter's Fort Museum, Sacramento Chamber

of Commerce, Stockton Chamber of Commerce, Golden Gate Exposition, Californians, Inc., Thomas Cooke & Sons, and The Gray Line, Inc., testified as to the need of a sight-seeing service between San Francisco and the so-called "Mother Lode" territory; that they had received numerous requests for information relative to such a sight-seeing tour; that such a service would be well patronized and that there exists a public need for the service proposed by applicant.

There was also included in the record by stipulation the testimony of numerous persons who would have testified substantially the same as the witnesses at the hearing. There were also introduced numerous letters from travel bureaus and various persons throughout the U. S., expressing a desire that the proposed service be inaugurated.

Pacific Greyhound Lines, Inc., Fialer's Inc., The Gray Line, Inc., Tanner Motor Tours, Ltd., Western Pacific Railroad Company, Sacramento Northern Railway and Southern Pacific Company signified that they had no objection to the granting of this application.

After a careful review of all of the evidence in this proceeding, I am of the opinion that the application should be granted.

Applicant, Norman E. Robotham, 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 requires the establishment and operation by Norman E. Robotham, an individual, of an automotive sight-seeing service as a common carrier of passengers and their baggage from San Francisco, as the point of origin, to San Francisco, as the point of destination, via Sacramento, Auburn, Coloma, Placerville, Sonora, Knight's Ferry and Stockton, with optional side trips from Plymouth to Fiddletown; Sutter Creek to Jackson, via Volcano; Angel's Camp to Calaveras Big Trees, via Murphy's and Meaning Caves; Sonora to Jamestown, via Sawmill Flat, Columbia and Shaw's Flat subject to the restrictions that:

- A. No local service may be performed between any two or more points intermediate between termini.
- B. The service herein authorized is to be confined strictly to the sight-seeing tour herein above set forth and known as the "Mother Lode Tour".

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to NORMAN E. ROBOTHAM, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized on or before April 3, 1938, and shall file in triplicate and concurrently make effective on not less than ten 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.

3. Applicant shall file, in duplicate, and make effective on or before April 3, 1938, on not less than five days' notice to the Railroad Commission, and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. 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.

5. 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 is hereby approved and ordered filed as the Opinion and Order of the Railroad Commission.

For all other purposes the effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4<sup>th</sup> day of October, 1937.

William H. ...  
John ...  
Frank ...  
Harold ...  
Ray & ...  
Commissioners.