

Decision No. 20420

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of THE GRAY LINE, INC. (San Francisco))	
for permission to consolidate into)	Fifth Supplemental
one unified operation and service)	Application No. 20401
fifteen sight-seeing tours, and for)	
an "in lieu" certificate.)	

CARL D. DETHELFSEN, for Applicant.

L. R. CHILCOTE, for A. Thompson, doing business
as Pioneer Motor Tours, Protestant.

BY THE COMMISSION:

O P I N I O N

In this application The Gray Line, Inc. has applied for a certificate declaring that public convenience and necessity require the consolidation of its tours No. 17, 18, 19 and 20, with the sightseeing operating rights heretofore granted applicant by Decision No. 28869, dated June 8, 1936, on Application No. 20401.

A public hearing thereon was held at San Francisco by Examiner Paul on December 9, 1937, and the matter is now ready for decision.

Decision No. 28869 granted applicant herein an in lieu certificate for the consolidated and unified operation of fifteen sightseeing tours No. 1 to 16, inclusive, there being no tour No. 13.

By Decision No. 29209, dated October 26, 1936, and Decision No. 29406, dated December 28, 1936, applicant was authorized to establish and operate additional sightseeing tours No. 17, 18, 19 and 20. Such tours were granted as separate and distinct tours and were not consolidated with the right heretofore granted by Decision No. 28869 by reason of the failure of applicant to request such consolidation. By Decision No. 29779, dated May 24, 1937,

applicant was authorized to establish and operate its sightseeing tour No. 21 as an extension and enlargement of the rights granted by Decision No. 28869.

Jno A. Boyd, secretary for applicant, testified it was applicant's belief that the granting of a certificate for the operation of tours No. 17, 18, 19 and 20, both inclusive, based upon a supplemental application, would automatically authorize the consolidation of such tours with the remainder of applicant's operating rights; that operation of the tours in question as part of the consolidated operation was due to such belief that they were part of the consolidated operating right; that upon learning that no authority had ever been granted for the consolidation of tours No. 17, 18, 19 and 20, he caused the instant supplemental application to be prepared and filed with the Commission; and, that numerous requests are received for tours which can be made up only by a combination of parts of tours No. 17 to 20, both inclusive, with other tours heretofore authorized.

Mr. A. Thompson, doing business as Pioneer Motor Tours, through counsel, protested granting of the application on the grounds that no showing of public convenience and necessity has been made for the operation of combination tours made up from present consolidated tours and that such tours are being operated without a certificate therefor. Said protestant further contends that no showing of public convenience and necessity has been made for a consolidation of tours No. 17 to 20, inclusive, herein applied for.

With the contentions of protestant, we cannot agree. The so-called combination tours which are made up from parts of tours No. 1 to 16, inclusive, and tour No. 21, were authorized by Decisions Nos. 28869 and 29779 and therefore have been properly certificated. To hold, as protestant contends, that such so-called combination tours have not been certificated is not consistent with the facts.

It appears, and the record clearly shows, that an ample and proper showing was made by applicant for the granting of the authority herein requested and the application being in the public interest will be granted.

The Gray Line, 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 Gray Line, Inc, a corporation, having made an application for the merging, consolidation and unification of the sightseeing operating rights heretofore granted by Decisions Nos. 29209 and 29406 with the sightseeing operating rights granted by Decision No. 28869, a public hearing thereon 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 merging and consolidation of sightseeing operating rights heretofore granted by Decision No. 29209, dated October 26, 1936, and Decision No. 29406, dated December 28, 1936, with the sightseeing operating rights heretofore granted by Decision No. 28869, dated June 8, 1936, into one unified operation over and along the routes as set forth in said Decisions Nos. 29209, 29406 and 28869, subject to all the

privileges, duties, limitations and restrictions set forth in said Decision No. 28869, and

IT IS ORDERED that a certificate of public convenience and necessity therefor is granted to The Gray Line, Inc. 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. 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.
3. 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 effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20th day of December, 1937.

Walter H. Brown
Leon C. Whelan
Joan R. Brown
Ruth H. Brown
Ray L. Brown
COMMISSIONERS.