

Decision No. 32193

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
MOTHEER LODGE TOURS, a corporation, to }
transfer operative right and equipment) }
to THE GRAY LINE, INC., a corporation.)

ORIGINAL

Application No. 22849

BY THE COMMISSION:

O P I N I O N

Mother Lodge Tours, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to The Gray Line, Inc., a corporation, of an operative right for the automotive transportation of passengers over a round trip sight-seeing tour which begins and ends at San Francisco and touching in its course, in general, the territory in the vicinity of Sacramento, the Mother Lodge section, and Stockton; and The Gray Line, Inc. has petitioned for authority to purchase and acquire said operative right and to hereafter operate thereunder. The sale and transfer is to be in accordance with an agreement, a copy of which, marked Exhibit "A," 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 stated to be \$4,000. Of this sum \$3,000 is alleged to be the value of the equipment and \$1,000 is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred was created by Decision No. 30205, dated October 4, 1937, Decision No. 31023, dated June 27, 1938, and Decision No. 31925, dated April 18, 1939.

This is not a matter requiring a public hearing and the request appearing to be 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.

ORDER

IT IS ORDERED that Mother Lode Tours, a corporation, is hereby authorized to transfer to The Gray Line, Inc. a corporation, and The Gray Line, Inc. is hereby authorized to acquire the operative right referred to in the foregoing opinion in accordance with the terms of the agreement, marked Exhibit "A," attached to the application herein and to hereafter operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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.
2. 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.
3. Applicant Mother Lode Tours shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public unite with applicant The Gray Line, Inc. in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicant Mother Lode Tours withdrawing and applicant The Gray Line, Inc. accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Mother Lode Tours shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public withdraw all time schedules filed in its name with the Railroad Commission and applicant The Gray Line, Inc. shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public file in duplicate in its own name time schedules covering service heretofore given by applicant Mother Lode Tours which time schedules shall be satisfactory to the Railroad Commission.

5. 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.

6. No vehicle may be operated by applicant The Gray Line, 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.

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

Dated at San Francisco, California, this 25th day of

July, 1939.

Robert A. ...
James P. ...
Carl ...
H. B. ...
Justus J. ...
COMMISSIONERS