

Decision No. 32222

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MOTOR TRANSIT COMPANY, a corporation,)
and HEMET BUS LINE (P. C. Cross, owner),)
for the former to lease to the latter)
operating rights between Riverside and)
Hemet and intermediate points, and for)
rerouting.)

Application No. 22812

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By this amended application Motor Transit Company seeks an order of the Railroad Commission authorizing a rerouting of its presently operated service between Riverside and Hemet and intermediate points which will enable it to follow new U. S. Highway No. 60 and U. S. Highway No. 83 between Box Springs (the intersection of U. S. Highway Nos. 395 and 60) and the intersection of Allesandro Avenue (formerly Moreno Road) and U. S. Highway No. 83 (formerly U. S. Highway No. 70) all in Riverside.

Additionally, Motor Transit Company has petitioned the Railroad Commission for an order authorizing the leasing by it to P. C. Cross, an individual, operating under the fictitious name and style of Hemet Bus Line, of an operating right for the transportation of passengers, baggage and express between Riverside and Hemet and intermediate points and said P. C. Cross has petitioned for authority to enter into said leasing arrangements for the aforementioned operating right and to hereafter operate thereunder, the lease to be in accordance with an agreement, a copy of which, marked Exhibit "B," is attached to the application herein and made a part thereof. The consideration involved is given as the sum of one dollar (\$1) and the lease is to terminate on February 1, 1940.

The operative right herein proposed to be leased is as originally set forth, described and restricted in Decision No. 29660, dated April 5, 1937.

As justification for the granting of the authority herein sought applicant Motor Transit Company alleges that the Riverside Hemet Line as now operated with heavy equipment and corresponding cost of depreciation and operation does not pay its out-of-pocket cost of operation and it is recommended by this Commission's Engineers in Vol. VIII, Chapter XXIX of Engineering Survey dated May 1, 1939, in Application No. 21656, that the line be discontinued. Applicant Cross believes that by the substitution of a small bus, with lower cost of depreciation and operation over the proposed route, which is approximately three miles shorter than the present route, the line can be operated at a profit. In connection with the rerouting referred to the allegations are made that it is more direct over a new U. S. Highway, that the portion of the present route to be discontinued is over a comparatively rough road on which little patronage is enjoyed, and that most of the places of business formerly located on the present route have now moved to the new highway. It is believed that a greater number of people will be served by the new route than on the present route.

Ordinarily we would be inclined to disfavor the splitting
(1)
of an operative right as contemplated by this application. However, as pointed out in re Benjamin Walters et al, Decision No. 30062, dated August 23, 1937, on Application No. 21076, and associated cases, the rule will be relaxed where it appears that otherwise an unjust, unreasonable or inequitable situation would be created. In this respect each case must be determined according to its peculiar facts.

(1) Part of unified system as granted to Motor Transit Company by in lieu certificate in Decision No. 29660.

Here we have a situation wherein Motor Transit Company having been authorized by this Commission to transfer all its assets and operative rights to Pacific Electric Railway Company finds itself unable to consummate this transaction immediately due to circumstances beyond its control. In addition Motor Transit Company alleges that it will be unable to continue the operation of the service herein proposed to be leased due to inability of the company to make out-of-pocket costs on the operation. To deny this application would force as the only alternative an application by Motor Transit Company to abandon and an application by Cross for a certificate of public convenience and necessity to serve the same territory. It is clearly in the public interest to permit the continued operation of this line by Cross at a profit rather than prolong the present unremunerative operation by Motor Transit Company. To deny this application would be inviting the ultimate abandonment of the service. We realize that the leasing arrangement entered into herein is only a temporary expedient and will expect therefore that the parties hereto work out a permanent solution of this matter on or before the expiration of the lease on February 1, 1940.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

P. C. Cross 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

IT IS HEREBY ORDERED that Motor Transit Company be and it is hereby authorized to operate its automotive common carrier service for the transportation of passengers, baggage and express between Riverside and Hemet and intermediate points, over and along the following routes:

HEMET BUS LINE - PROPOSED ROUTE:

Commencing at Motor Transit Depot at 3731 Market Street, Riverside, south on Market Street one block to Eighth Street, thence east and southeast on Eighth Street, U. S. Highway 60 and U. S. Highway 83 through Box Springs, New Moreno and Gilman Hot Springs to the intersection of U. S. Highway 83 and Central Avenue in San Jacinto, thence continuing southeasterly on Central Avenue, south on San Jacinto Avenue and west on Florida Avenue to Harvard Street, Hemet.

Alternate route via Soboba Hot Springs

Leaving U. S. Highway 83 at Soboba Junction, thence over unnamed county road through Soboba Hot Springs to intersection with Main Street, thence via Main Street to intersection with San Jacinto Avenue, San Jacinto.

in lieu of its presently routed service as described in Decision No. 29660 which is deemed to be amended to the extent above indicated.

IT IS HEREBY FURTHER ORDERED that Motor Transit Company be and it is hereby authorized to lease to P. C. Cross for a period commencing on the effective date of this order and terminating on February 1, 1940, its operative right for the automotive transportation of passengers, baggage and express between Riverside and Hemet and intermediate points as heretofore authorized in Decision No. 29660, as amended herein, 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 Motor Transit Company 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 P. C. Cross 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 Motor Transit Company withdrawing, and applicant P. C. Cross accepting and establishing, such tariffs and all effective supplements thereto.

4. Applicant Motor Transit Company 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 P. C. Cross 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 his own name time schedules covering service heretofore given by applicant Motor Transit Company 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 P. C. Cross 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 1st day of August, 1939.

COMMISSIONERS