

Decision No. 32480

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC )  
GREYHOUND LINES, a corporation, for removal ) Application No. 22232  
of certain restrictions in the territory )  
between Marysville and Chico. )

In the Matter of the Application of SACRA- )  
MENTO NORTHERN RAILWAY for certificate of )  
public convenience and necessity to operate )  
an auto stage line for the transportation )  
of passengers, baggage, mail and express, )  
as a common carrier, for compensation, ) Application No. 22310  
between Gridley and Durham and between )  
Oroville Junction and Richvale in Butte )  
County, Calif., and intermediate points, )  
as an extension and enlargement of auto )  
stage operations now conducted between )  
Sacramento and Oroville, Portola and Chico )  
and between Oroville and Oroville Junction. )

In the Matter of the Application of NORA )  
GAFFNEY, nee NORA HANCOCK, d.b.a. GRIDLEY )  
AUTO BUS COMPANY, for a certificate of )  
public convenience and necessity to oper- ) Application No. 22311  
ate an auto stage line for the transporta- )  
tion of passengers and baggage, as a common )  
carrier, for compensation, between Gridley )  
and Biggs and intermediate points in the )  
County of Butte, State of California. )

H. C. LUCAS, for Pacific Greyhound Lines, Applicant,  
and Protestant.

L. N. BRADSHAW, for Sacramento Northern Railway, Applicant,  
and Protestant.

L. N. BRADSHAW, for Nora Gaffney, Applicant, and  
Protestant.

HARRY A. ENCELL, for California-Nevada Stages, Inc.,  
Protestant.

P. M. BARCELOUX, for Citizens of Richvale, interested  
parties.

BY THE COMMISSION:

O P I N I O N

In Application No. 22232 Pacific Greyhound Lines requests  
that certain restrictions, as hereinafter described, be removed from  
its operative rights in the territory between Marysville and Chico.

In Application No. 22310 Sacramento Northern Railway asks for a certificate of public convenience and necessity to operate auto stage line for the transportation of passengers, baggage, mail and express between Gridley and Durham, and between Oroville Junction and Richvale, in Butte County, as an enlargement of its present operations.

In Application No. 22311 Nora Gaffney, nee Nora Hancock, doing business as Gridley Auto Bus Company, seeks a certificate of public convenience and necessity to operate an auto stage line for the transportation of passengers and baggage between Gridley and Biggs, and intermediate points in Butte County.

A public hearing was held before Examiner Hall on June 7, 1939, at Chico, at which time it was agreed that the matter be submitted upon the filing of opening and reply briefs. Briefs have now been filed and the matters are ready for determination.

It appeared appropriate to take evidence in those three matters on a consolidated record and it was so stipulated by the parties.

DESCRIPTION OF THE VARIOUS APPLICATIONS:

Application No. 22232 - Pacific Greyhound Lines

Pacific Greyhound Lines now operates auto stages through the east side of Sacramento Valley, from Roseville, Placer County, to Red Bluff, Tehama County, via Wheatland, Lincoln, Marysville, Gridley, and Chico, on the authority granted in Decision No. 29290, dated November 23, 1936. The authority was granted subject to the following restrictions:

1. No passengers, baggage or express shall be transported locally between Sacramento and Chico, and intermediate points.
2. No passengers, baggage or express shall be transported between San Francisco, Oakland and/or Sacramento on the one hand and the territory along, between, and including Roseville and Chico on the other, either

- (a) Via Red Bluff or Proberta.
- (b) Via the route herein authorized between Roseville and Chico, upon and along Highway U. S. 99E.

By the pending proceeding (Application No. 22232, Pacific Greyhound Lines requests that the above restrictions be modified as follows:

1. No passengers, baggage or express shall be transported locally between Sacramento and Chico and intermediate points other than between:
  - (a) All intermediate points between, but not including, Gridley and Durham.
  - (b) Chico to, but not including, Yuba City on the one hand, and to points between, but not including, Marysville and North Sacramento on the other hand.
  - (c) Gridley and Durham, both included, and intermediate points on the one hand, and all points Sacramento to Chico on the other.
2. No passengers, baggage or express shall be transported between San Francisco-Oakland and/or Sacramento on the one hand, and the territory along, between, and including Roseville and Chico on the other hand, either
  - (a) Via Red Bluff or Proberta, or
  - (b) Via the route authorized in Decision No. 29290, between Roseville and Chico upon and along Highway U. S. 99E

except that passengers, baggage and express may be transported between San Francisco-Oakland and/or Sacramento, and all points intermediate between but not including Gridley and Durham.

Application No. 22310 - Sacramento Northern Railway

Sacramento Northern Railway now holds a certificate of public convenience and necessity, authorized by Decision No. 29290, as amended, for the operation of auto stage service between Sacramento and Chico via Marysville, Gridley, and Oroville. It also operates an auto stage between Oroville Junction and Oroville.

In addition Sacramento Northern Railway operates three electric passenger trains each way daily between Sacramento and Chico, with connections made to Oroville by auto stage from Oroville Junction.

In the instant application a certificate of public convenience and necessity is requested for the transportation of passengers, baggage, mail and express between Gridley and Durham (via U. S. Highway 99E) and between Oroville Junction and Richvale, as an enlargement of its existing rights.

Application No. 22311 - Nora Gaffney nee Nora Hancock,  
doing business as Gridley Auto Bus Company.

This applicant now operates an auto stage service between Gridley and East Gridley. At this latter point connection is made with trains of Sacramento Northern Railway. In the instant proceeding applicant asks for a certificate of public convenience and necessity to operate an auto stage line for the transportation of passengers and baggage between Gridley and Biggs and intermediate points in Butte County.

It is proposed to operate this service in connection with the existing service so that the various communities involved will have connections with the trains of Sacramento Northern Railway at East Gridley.

DESCRIPTION OF THE TERRITORY INVOLVED:

It does not appear necessary to again describe the territory involved as it is quite thoroughly described in the Opinion in Decision No. 29290. However, it is pointed out that the territory between Gridley and Durham, both excluded, is not now served by any of the applicants. The only service to these communities which includes Biggs and Richvale is that of Southern Pacific Company which operates two passenger trains north (east) bound and one passenger train south (west) bound daily between Sacramento and Red Bluff via Roseville, Marysville, Biggs, Richvale, and Chico.

PROPOSALS:

In its request for modification of its restrictions as outlined above, Pacific Greyhound Lines contends that it can give

passenger service to the territory between Gridley and Durham (both excluded) without increasing its service or increasing its operating costs. Its passenger stages now operate through the territory (Biggs and Richvale)<sup>(1)</sup> without performing any local service to these communities.

A modification of the restrictions would allow the residents of the Biggs-Richvale area an unrestricted use of Greyhound service, which it is contended is a necessary and useful service to those people. In other words, all restrictions on sales from or to the Biggs-Richvale area should be removed.

Residents of the area between Gridley and Durham (both excluded) testified that they needed added passenger service for their convenient travel in and out of their territory. They contended that the service of Southern Pacific Company, which consists of two northbound trains and one southbound train, is entirely inadequate for their needs.

Sacramento Northern Railway contends that its existing route between Marysville and Chico via Oroville does not give adequate service on account of the circuitous route via Oroville. It is their plan to establish a direct route between Marysville and Chico via U. S. Highway 99E and various county roads, with a connecting service at Richvale to serve Oroville. They plan, however, to maintain both routes, i.e., the direct route via U. S. Highway 99E for regular service and the former route for occasional service when requirements demand. The route proposed along U.S. Highway 99E would give service to the territory between Gridley and Durham (both excluded), which it does not serve.

(1)

PACIFIC GREYHOUND LINES SCHEDULE

NORTE				SOUTH			
9:10 P :	3:35 P :	2:20 A :	11:45 A :	Sacramento :	11:45 A :	4:25 P :	8:50 P :
10:33 P :	5:05 P :	3:48 A :	1:10 P :	Marysville :	9:17 A :	2:57 P :	7:25 P :
11:30 P :	6:17 P :	4:40 A :	2:02 P :	Biggs :	8:00 A :	1:44 P :	6:10 P :
11:44 P :	6:31 P :	4:54 A :	2:16 P :	Richvale :	7:45 A :	1:28 P :	5:54 P :
12:15 A :	7:05 P :	5:25 A :	2:50 P :	Chico :	7:15 A :	12:58 P :	5:24 P :

It is proposed to operate one round trip daily over the new route, i.e., from Sacramento to Chico in the morning and from Chico to Sacramento in the evening. This route would serve the towns of Biggs, Richvale, and surrounding territory.

Not only would this new operation serve the Biggs-Richvale territory but it would also make a more direct route between Chico and points south. Chico is the heaviest user of local transportation in the east side and therefore applicant contends that Chico should have as direct service as possible to points south.

The service proposed by Gridley Auto Bus Company between Gridley and Biggs is to be operated in connection with its existing service between East Gridley and Gridley. By so doing the people of Biggs and the intervening territory between Biggs and Gridley would have direct connection with the trains of Sacramento Northern Railway at East Gridley. The service proposed will consist of five round trips between Biggs and East Gridley and one trip from Gridley to Biggs (Amended Exhibit B).

Sacramento Northern Railway proposes to guarantee to Gridley Auto Bus Company its out-of-pocket expense. In other words, if the Gridley Auto Bus revenue plus its division of joint tickets does not equal the cost, the balance will be made up by Sacramento Northern Railway. This latter company alleges that the additional revenue it receives from traffic originating at or destined to points on the route of Gridley Auto Bus Company will amply repay it for the guarantee offered.

Both Gridley Auto Bus Company and Sacramento Northern Railway contend that this arrangement will give the Biggs community a reasonable and necessary passenger service.

California Nevada Stages, by written statement received at the hearing, protested the granting of all the applications involved herein, otherwise it would ask that its Application No. 19954 be reopened, but offered no testimony in support of its position.

CONCLUSIONS:

There are three proposals before us, all for somewhat the same purpose.

The Pacific Greyhound Lines wants its restrictions liberalized so that it may serve without restriction the territory between Gridley and Durham (both excluded).

Sacramento Northern Railway seeks a certificate to operate via a shorter route than that which it now uses between Marysville and Chico, and also serve the above territory.

Gridley Auto Bus Company, in conjunction with the train service of Sacramento Northern Railway, desires to perform service between Biggs and East Gridley, via Gridley.

Pacific Greyhound Lines proposes to serve the area between Gridley and Durham (both Excluded) by its existing service (four schedules northbound and three schedules southbound). Sacramento Northern Railway proposes one schedule northbound in the morning and one schedule southbound in the evening. Gridley Auto Bus Company proposes five round trips between Biggs and East Gridley, via Gridley, to connect with Sacramento Northern Railway trains at East Gridley, and issue and honor joint tickets.

It is apparent that if all of these applications are granted, the territory between Gridley and Durham would have an over-abundance of service.

Pacific Greyhound Lines, if its restrictions were amended, as requested, would still have restrictions on its operations between Chico and Sacramento.

The granting of the requests of both Sacramento Northern Railway and Gridley Auto Bus Company would produce an unrestricted service in the territory involved.

The service to Biggs and Richvale proposed by Pacific Greyhound Lines is to be performed on schedules designed for long haul service, both intrastate and interstate, the times these schedules

pass through the territory herein involved being controlled by the long haul rather than the local needs.

The record shows that schedules as they now exist do not generally meet local needs; whereas, on the other hand, the bus and train schedules of Sacramento Northern Railway, as well as the bus schedules of Gridley Auto Bus Company, are designed entirely for the purpose of serving the local needs of Chico and points south. In other words, the operations of Sacramento Northern Railway as a whole serve only points between Chico and San Francisco via Sacramento, Marysville, and intermediate points.

By prior orders of this Commission it was clearly indicated that Sacramento Northern Railway is looked upon to serve the east side of Sacramento Valley between Marysville and Chico, and it is our opinion that Sacramento Northern Railway should serve the territory on the east side of Sacramento Valley, north of Marysville, either by its own equipment or by joint arrangement with another carrier. Such a joint arrangement has been made with Gridley Auto Bus Company.

Sacramento Northern Railway, under this arrangement, would discontinue regular service between Gridley and Chico via Oroville over certain county roads, as described in Decision No. 29290. The record shows that little use was made of this service through the intervening territory between Gridley and Oroville, and between Oroville and Chico. Applicant desires to maintain its rights over these routes for the purpose of taking care of occasional or special movements of passengers.

After giving due consideration to the entire record it appears that

1. Pacific Greyhound Lines' application should be denied.
2. Sacramento Northern Railway's application should be granted.
3. Application of Gridley Auto Bus Company should be granted.
4. Sacramento Northern Railway shall, if public convenience and necessity require, reestablish regular service on the route between Gridley and Chico via Oroville, as described in Decision No. 29290.



Sacramento Northern Railway and Nora Gaffney, nee Nora Hancock, doing business as Gridley Auto Bus Company are 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

A public hearing having been held, briefs having been filed, and the matter being duly submitted

The Railroad Commission of the State of California Hereby Declares that public convenience and necessity require the establishment and operation by Sacramento Northern Railway, a corporation, as a passenger stage corporation as defined in Section 2 $\frac{1}{2}$  of the Public Utilities Act, of an automotive passenger service for the transportation of passengers, baggage and express between and serving the following named termini and all intermediate points, as an extension and enlargement of the operative rights granted by Decisions Nos. 28766, 29290, and 30830:

(a) Between Gridley and Durham:

Commencing from applicant's present route on U. S. Highway 99E and Sycamore Street, Butte County, north on U. S. Highway 99E to Hazel Street, west on Hazel Street to Virginia Street, Gridley; thence continuing west on Hazel Street and County Road to north and south County Road; thence following County Roads northerly, westerly and northerly to Tahama Street, east on Tahama Street to California Street, town of Biggs; thence north on California Street and County Roads northerly, westerly and northerly to Riceland Station; continuing north on County Road to State Highway Route No. 45; west on State Highway Route No. 45 to County Road; thence north on County Road to connection with U. S. Highway 99E at Richvale; thence north on U. S. Highway 99E through Nelson to Durham.

(b) Between Oroville Junction and Richvale:

Commencing at a point on State Highway No. 21 near applicant's terminus at Oroville Junction, westerly along State Highway No. 21 to its intersection with U. S. Highway 99E; thence continuing in a westerly direction along U. S. Highway 99E to a connection at Richvale with applicant's proposed route between Gridley and Durham.

All of the above is shown on map (Exhibit B) attached to and made a part of Application No. 22310.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to the Sacramento Northern Railway, subject to the following conditions:

- (1) Applicant shall file written acceptance of the certificate herein granted within a period of not to exceed sixty (60) days from the date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not to exceed sixty (60) days from the effective date hereof and shall file, in triplicate, and concurrently make effective on not less than ten (10) days' notice to the 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 Exhibit "A" attached to Application No. 22310 in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Commission.
- (3) Applicant shall file, in duplicate, and make effective within a period of not to exceed sixty (60) days after the effective date of this Order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Commission.
- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred, nor assigned unless the written consent of this 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 Commission.
- (6) Applicant is authorized to turn its motor vehicles at termini or intermediate points, either in the intersection of the streets or by operating around a block contiguous thereto in either direction, and to carry passengers as traffic regulations of the political subdivisions involved may require.

- (7) Applicant shall transport no shipment of express weighing in excess of one hundred (100) pounds, and no shipment may be transported except on passenger-carrying vehicles.

The Railroad Commission of the State of California Hereby Further Declares that public convenience and necessity require the establishment and operation by Nora Gaffney, nee Nora Hancock, doing business as Gridley Auto Bus Company, as a passenger stage corporation as defined in Section 2½ of the Public Utilities Act, of an automotive passenger service for the transportation of passengers and baggage and serving the following termini and all intermediate points, as an extension and enlargement of applicant's prescriptive operative rights between Gridley and East Gridley.

Beginning at the end of the present line at Hazel and Virginia Streets, Town of Gridley; thence west on Hazel Street and County Road to north and south County Road; thence following County Roads north, west and north to Tehama Street; thence east on Tehama Street and Second Street to Second and "B" Streets, Town of Biggs.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Nora Gaffney, nee Nora Hancock, doing business as Gridley Auto Bus Company, subject to the following conditions:

- (1) Applicant shall file written acceptance of the certificate herein granted within a period of not to exceed sixty (60) days from the date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not to exceed sixty (60) days from the effective date hereof and shall file, in triplicate, and concurrently make effective on not less than ten (10) days' notice to the 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 Exhibit "A" attached to Application No. 22311 in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Commission.
- (3) Applicant shall file, in duplicate, and make effective within a period of not to exceed sixty (60) days after the effective date of this Order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Commission.

- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of this 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 Commission.
- (6) Applicant is authorized to turn its motor vehicles at termini or intermediate points, either in the intersection of the streets or by operating around a block contiguous thereto in either direction, and to carry passengers as traffic regulations of the political subdivisions involved may require.

IT IS HEREBY FURTHER ORDERED that Sacramento Northern Railway is authorized to discontinue regular service upon its route between Gridley and Oroville, via Robinson's Corner and Palermo, and between Oroville and Durham via the so-called Magalia Road Junction, but may maintain said route for occasional or special service as circumstances may require, provided, however, that regular service shall be reinstated if public convenience and necessity should so require or upon order of the Commission.

IT IS HEREBY FURTHER ORDERED that Application No. 22232 is hereby denied without prejudice.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 24<sup>th</sup> day of October, 1939.

Raymond J. ...  
James R. ...  
Carl J. ...  
...  
Justice F. ...  
Commissioners