

ORIGINAL

Decision No. 722725

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of TED K. CLARK, doing business as CAMP ORD BUS LINE, for certificate of public convenience and necessity to operate a passenger and baggage service between Presidio of Monterey, California and Salinas, California.) Application No. 23024

In the Matter of the Application of PACIFIC GREYHOUND LINES for certificate of public convenience and necessity to operate automotive stage service for the transportation of passengers, baggage and express between Salinas and Marina via Camp Ord.) Application No. 23046

H. C. LUCAS and E. D. RICHARDS, by E. C. Lucas for Pacific Greyhound Lines, applicant in Application No. 23046 and protestant in Application No. 23024.

DELMORE WOOD, for Ted K. Clark, applicant in Application No. 23024 and protestant in Application No. 23046.

BRYANT GUERNSEY, protestant in Application No. 23024.

BAKER, Commissioner:

O P I N I O N

Ted K. Clark, doing business as Camp Ord Bus Line, in Application No. 23024, requests a certificate of public convenience and necessity to establish and operate an automotive service as a passenger stage corporation, for the transportation of passengers and baggage, between the Presidio of Monterey and Salinas and intermediate points, including Camp Gigling, Camp Clayton, Marina and Camp Ord. It is not proposed to transport passengers or baggage having both point of origin and destination between the Presidio of Monterey and Seaside or intermediate points.

Pacific Greyhound Lines, in Application No. 23046, requests a certificate of public convenience and necessity authorizing it to establish and operate an automotive service, as a passenger stage corporation, for the transportation of passengers, baggage and express, with a limitation upon express as hereinafter set forth, between

- (a) Salinas and Marina, via River Junction and Camp Ord; and
- (b) a point known as Camp Ord Road and River Junction.

A public hearing was had at Monterey on November 6, 1939, at which evidence was adduced and the matters having been submitted upon concurrent briefs which have been filed, it is now ready for decision. The matters were consolidated for hearing and decision.

APPLICATION NO. 23024 (Ted K. Clark)

Applicant Clark proposes to establish four daily round trips between Monterey Presidio and Salinas, leaving said Presidio at 7:00 A.M., 12:00 M., 3:00 P.M. and 8:00 P.M. On the return trip, these schedules leave Salinas at 8:00 A.M., 1:00 P.M., 4:00 P.M. and 9:00 P.M. The elapsed time between termini is approximately fifty-five minutes, the distance being approximately twenty-two miles.

One-way fares are based upon a charge of three cents a mile and round-trip fares will be 180 per cent of the one-way fares. Commutation fares of two cents a mile will be charged those desiring to purchase books of tickets good for ten one-way rides which must be used within thirty days from the date of sale.

The equipment proposed to be used consists of two second-hand twenty-passenger capacity Chevrolet busses.

The route proposed to be used by applicant Clark is the county road from Salinas to Camp Ord, thence continuing along such county road to Marina which is located on State Route No. 56⁽¹⁾ between Castroville and Monterey, thence southerly along said route via Camp Gigling Junction (Workfield) to Monterey.

APPLICATION NO. 23046 (Pacific Greyhound Lines)

Pacific Greyhound Lines is now providing a certificated service for the transportation of passengers, baggage and express between Monterey and Salinas over two routes. One is via State Route No. 117 serving all intermediate points, including one named Camp Ord Road which is a junction point of State Route No. 117 and the county road running to Camp Ord which is located about four miles from such junction. The other route is over State Route No. 56 from Monterey to Castroville (commonly referred to as the Monterey-Castroville Highway) via Workfield and Marina and thence from Castroville to Salinas via Cooper and Graves over State Route No. 118. Camp Gigling is located about one and one-half miles easterly from the Greyhound intermediate point of Workfield, sometimes known as Gigling Junction. (The road between Workfield and Camp Gigling is privately owned.)

In this application Pacific Greyhound Lines proposes to establish a service for the transportation of passengers, baggage and express between:

- (a) Salinas and Marina via River Junction and Camp Ord over the County Highway; and

(1) The route numbers used are the statutory or so-called legal route numbers, not the roadside sign numbers.

(b) Camp Ord Road and River Junction via the County Highway.

It is proposed to transport express subject to the following restriction:

"In the transportation of express no single shipment shall be accepted for shipment that weighs in excess of 100 pounds, and all express must be transported in passenger vehicles only, except as to property transported for or through the agency of Railway Express Agency, Inc., and milk and cream and empty containers of such commodities when being transported to or from a rail junction point in connection with rail transportation to which said shipments, restrictions as to weight and vehicle shall not apply."

It is requested that a certificate for the proposed service be granted as an extension and enlargement of applicant's present operative rights heretofore created by the Commission's Decision No. 23244, on Application No. 16989.

The one-way fare is based on a charge of two cents a mile and the round-trip fare will be 180 per cent of the one-way fare.

It is shown from the record that this applicant is now providing nine daily schedules from Salinas to Monterey and eleven daily schedules from Monterey to Salinas. It is also operating one daily schedule from Salinas to Monterey over the Castroville route with none in the return direction. In addition, it is operating one daily schedule from Watsonville to Monterey via Castroville and Marina and two in the opposite direction.

This applicant proposes to establish three daily round-trip schedules over the Camp Ord Road between Salinas and Monterey. Two of these will be new schedules and the other will be by diversion to Camp Ord of one of its schedules presently operated between Monterey and Salinas.

The testimony of four public witnesses and one operative witness was offered by applicant Clark in support of his proposal. From such testimony it was established that at Camp Gigling and Camp Ord approximately 1200 men under the supervision of the Works Progress Administration and the State Emergency Relief Administration are being maintained and engaged in the construction and establishment of facilities at these camps to accommodate from 5,000 to 10,000 members of the United States military establishment. The reservation on which these camps are located comprises approximately 17,000 acres located about midway between Salinas and Monterey north of State Route No. 117. It was also shown that during approximately nine months of the year various military groups, composed principally of members of the Reserve Officers Training Corps, Civilian Military Training Corps, Reserve Officers Corps and members of various units of the regular army are encamped on the reservation for training purposes. The number of such troops in training varies from none to approximately 3,000 men. The maximum during 1939 was approximately 2,600.

The record shows that no public transportation facilities are now available to provide service between these camps and Salinas and Monterey. Camp Gigling is located approximately one and one-half miles easterly from Workfield (Gigling Junction) on State Route No. 56 over which route public service may be had. Camp Ord is located approximately four miles from State Route No. 117 and approximately five miles from State Route No. 56 over which routes public transportation is now provided.

The Secretaries of the Chambers of Commerce of Salinas and Monterey each testified that the Boards of Directors of such Chambers had resolved that there is, at the present time, a pressing need for a service to and from the Camp Ord Military Reservation.

One public witness testified in support of applicant Pacific Greyhound Lines' proposed service. It was stipulated that the testimony of six other persons who were present at the hearing would, if called, be the same as the one who testified.

It is apparent from this record that there is a public need for an automotive service for the transportation of passengers and baggage between the points involved in these proceedings. It was not shown, however, that there is a need for the services of both applicants. Neither does the record justify the conclusion that there is a public need for the transportation of express including milk and cream or property transported for or through the agency of Railway Express Agency Incorporated.

The Commission has heretofore held that a complete and affirmative showing must be made before a certificate may be issued. Such showing must be made so that the Commission may ascertain from the record, free from doubt, that the proposed service, if authorized, will meet a definite public need. No such showing has herein been made with respect to the application of Pacific Greyhound Lines for a certificate of public convenience and necessity authorizing the transportation of express, or milk and cream, or property transported for or through the agency of the railway Express Agency, Incorporated. Therefore, in consonance with the long established rule of the Commission no authority may be granted for the transportation of such property.

Re Beverly Gibson, 26 C.R.C. 892
Re Bay Cities Transportation Company, 26 C.R.C. 13
Re J. Starkey, 27 C.R.C. 324, 326

Some evidence was given as to the financial responsibility and experience of applicant Clark. Mr. Clark, who is a resident of

Monterey and engaged in the real estate and insurance business there, admitted that he has had no experience in the transportation field. He had made no investigation or survey as to the feasibility of his proposed operation. An investigation and survey was made by Mr. Jones purportedly under the employ of applicant Clark. The experience and ability of Mr. Jones was not questioned. Mr. Clark testified that in the event a certificate were granted to him it was proposed to organize a corporation and request the Commission to authorize the transfer of such certificate to the corporation. Mr. L. D. Jones would be employed as manager of the operation by the corporation. The amount of the capital stock of the proposed corporation would be \$6,000. Of such amount Clark would subscribe for \$3,000. L. D. Jones and T. B. Wilson would subscribe for the remainder in the amounts of \$900 and \$2,100, respectively. Clark stated that he is unable to finance the proposed venture from his own resources although \$3,000 is now available to him. However, he did not explain the circumstances under which it is available. The showing of Clark in regard to his ability to properly finance his proposed operation is not complete. It appears that he has speculated on the proposition of obtaining the certificate sought which, if obtained, would then be used to secure the necessary funds to finance his adventure.

There is no question as to the ability of Pacific Greyhound Lines to properly establish and operate the service it proposes.

Each applicant herein protested the application of the other. Bryant Guernsey, who provides a certificated passenger stage service between Monterey and Seaside, protested the granting of the application of Clark only. However, he made no showing in support of such protest.

From the record it appears that the roadway from Workfield, now served by Pacific Greyhound Lines, to Camp Gigling is privately owned. The Commission has heretofore held that it may neither grant nor deny a certificate for the establishment and operation of an automotive service over privately owned roadways.

Re San Joaquin Light & Power Corp. 18 C.R.C.
791, 792
Bolton vs Olson & Ranch, 23 C.R.C. 968, 971
Re J. C. Reynolds, 22 C.R.C. 891

After full and careful consideration of all the evidence of record in these proceedings, I am of the opinion, and so find, that there is a public need for the passenger stage service, as proposed by applicant Pacific Greyhound Lines (Application No. 23046) for the transportation of passengers and baggage and recommend that its application be granted and that Application No. 23024 of Ted K. Clark be denied.

Pacific Greyhound Lines 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.

The following form of order is submitted.

O R D E R

A public hearing having been had in the above-entitled matters, evidence having been received, the matters having been duly

submitted, and the Commission being now fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Pacific Greyhound Lines, a corporation, of an automotive service as a passenger stage corporation, as such is defined by section 24 of the Public Utilities Act, for the transportation of passengers and baggage, between Salinas and Marina via River Junction and Camp Ord; and between the junction of Camp Ord Road and State Route No. 117 and River Junction over the county highways connecting such points and serving all intermediate points, as an extension and enlargement of the operative rights heretofore granted by Decision No. 23244, on Application No. 16989.

IT IS ORDERED that a certificate of public convenience and necessity therefor is hereby granted to Pacific Greyhound Lines.

IT IS FURTHER ORDERED that Application No. 23024 is hereby denied.

The certificate herein granted is subject to the following conditions:

1. The authority herein granted shall lapse and become 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. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
3. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, 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.

4. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

5. 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.

6. 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 are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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

Dated at San Francisco, California, this 13th day of January, 1940.

Ray L. Riley
Walter R. Dwyer
Ray J. Bohannon
[Signature]
Justus J. Cramer
COMMISSIONERS