

Decision No. 23930

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the joint application of)
 SACRAMENTO NORTHERN RAILWAY, a corporation,)
 to sell and PACIFIC GREYHOUND LINES, a cor-)
 poration, to purchase certain passenger) Application
 stage operative rights for the transportation) No. 23930
 of passengers, baggage and express between)
 San Francisco and Pittsburg, California.)

L. N. BRADSHAW, for Applicant Sacramento Northern Railway

H. C. LUCAS, E. A. BAGBY, AND H. D. RICHARDS, for Applicant
 Pacific Greyhound Lines.

HARRY A. ENCELL, for Protestant The Gibson Lines.

CHARLES W. DULLEA, Chief of Police, and MICHAEL RIORDAN,
 Deputy Chief of Police, for Police Commission and
 Police Department of the City and County of San
 Francisco.

RILEY AND HAVENNER, Commissioners:

O P I N I O N

Applicants request Commission authorization for the transfer of a "passenger stage corporation" operative right (between San Francisco and Pittsburg, and between Walnut Creek and Diablo), together with certain equipment, from Sacramento Northern Railway to Pacific Greyhound Lines. The depreciated value of the equipment is alleged to be \$26,402.68, and the total consideration for the purchase of the operative right and equipment is \$26,500.

Protestant Beverly Gibson renders passenger stage service between San Francisco and Sacramento. He protests the granting of the application upon the ground that because Sacramento Northern will continue its rail operations, the transfer of its passenger stage right to Greyhound would create a new certificate. Protestant's first argument seems to be that when a railroad is granted a certificate to operate passenger stages, it does not acquire a right separate

and distinct from its rail operations. His second argument is that in fact Sacramento Northern's Pittsburg-San Francisco stage right was not granted as a separate passenger stage right, but as an extension and enlargement of railroad "operative rights" acquired earlier from a predecessor railroad. Thus, protestant contends that the granting of the present application will result in a "splitting" and multiplication of operative rights, contrary to precedent.

In 1924, San Francisco-Sacramento Railroad Company (Sacramento Northern's predecessor), having abandoned rail service between Walnut Creek, Alamo, Danville, and Diablo, was granted a certificate to operate passenger stages between those points (24 C.R.C. 542). In 1928 San Francisco-Sacramento Railroad Company was authorized to transfer "all of its property, except its corporate franchise" to Sacramento Northern Railway (32 C.R.C. 353). That authorization to transfer included the Walnut Creek-Diablo passenger stage right. In 1937 Sacramento Northern Railway was granted a certificate, as a passenger stage corporation, between Pittsburg and San Francisco, "not as a separate operating right but as an extension and enlargement of the operating rights heretofore acquired" under the 1928 transfer authorization (Decision No. 29781, Application No. 19967). The rights thus referred to and enlarged obviously were the Walnut Creek-Diablo passenger stage rights, as made clear by the 1937 opinion, which states that the Pittsburg-San Francisco certificate was sought by Sacramento Northern "as an enlargement and extension of its existing stage operations" (Decision No. 29781, sheet 4). It is this enlarged passenger stage operative right, embracing both the Walnut Creek-Diablo and the Pittsburg-San Francisco operations, which Sacramento Northern desires to transfer to Greyhound. The transfer of that enlarged right will not result in the "splitting" of an operative right or in the creation of a new right.

Greyhound's ability to render the service heretofore found

to be needed by the public is not questioned, and the record fails to show any reason why the proposed transfer should not be authorized.

Greyhound also requests minor changes in routing in Oakland and in San Francisco, for the purpose of serving its present terminals in those cities. This request appears reasonable and the order will so provide. A resurvey of the routes followed by inter-urban passenger stages in San Francisco, as suggested by the Police Department of that city, should be considered in connection with an appropriate proceeding involving at least all of Greyhound's operations, rather than in the present proceeding.

The operative right to be acquired by Greyhound partially duplicates certain of its existing rights, with conflicting restrictions and limitations. Without discussing the effect of the proposed transfer, when consummated, as a merger of conflicting separate rights between the same points, resulting from the acquisition of such rights by one operator, it is timely to suggest that Greyhound, by an appropriate application, seek a restatement and clarification of its operative rights.

O R D E R

The above matter having been submitted following the taking of evidence at a public hearing and the filing of briefs, and based upon the record and upon the factual findings contained in the above opinion, IT IS ORDERED as follows:

I

The certificate of public convenience and necessity, as a "passenger stage corporation," now held by Sacramento Northern Railway, granted to its predecessor by Decision No. 13223 (Application No. 9811), acquired pursuant to Decision No. 20391 (Application No. 14923), and as enlarged by Decision No. 29781 (Application No. 19967)

as amended, is hereby further amended to read as follows:

"A certificate is hereby granted to Sacramento Northern Railway for the operation of an automotive stage service as a passenger stage corporation, as that term is defined in Sec. 2-1/4 of the Public Utilities Act, for the transportation of passengers, baggage and express (1) between Walnut Creek and Diablo and intermediate points, and (2) between Pittsburg and San Francisco and intermediate points, said certificate being limited as follows:

"1. Local passengers shall not be transported over the San Francisco-Oakland Bay Bridge. The term 'local passengers' is defined as passengers whose origin and destination are within the territory described in Exhibit 'E' to the agreements of March 6, 1936, between the California Toll Bridge Authority and Interurban Electric Railway Company, and between said Authority and Key System, which agreements were considered in Re Key System, Ltd., 39 C.R.C. 646, and Re Key System, 40 C.R.C. 432.

"2. No express package shall be accepted for shipment which exceeds one hundred (100) pounds in weight, and all express shall be transported on passenger vehicles only."

II

The following service regulations shall be complied with and observed in rendering passenger stage service pursuant to the foregoing certificate.

1. Subject to the authority of the Commission to change or modify such at any time by further order, said passenger stage service shall be conducted over and along the following described routes:

From Pittsburg, along the main highway to Concord via Port Chicago (Bay Point) and as an alternate between these two points via the Willow Pass Road, from Willow Pass Junction to Concord; thence from Concord along the main highway to Walnut Creek; thence along the Tunnel Road through Lafayette to Orinda Junction, detouring when necessary to the Sacramento Northern station at Lafayette as follows: From the west junction of the Old Tunnel Road and the new Tunnel Highway (at Meraga Road), Lafayette, to the Sacramento Northern Railway Lafayette depot via the Old Tunnel Road, Second Street and Meraga Boulevard, .6 miles, and from the Lafayette Depot to the east junction of the Old Tunnel Road and the new Tunnel Highway at Lafayette, via Meraga Boulevard, Second Street, and the Old Tunnel Road, .5 miles. (Decision 33641, Application 19967); thence to Orinda and return to Orinda Junction; thence along Tunnel Road and Low Level Tunnel; thence -

WESTBOUND: To Broadway, City of Oakland; thence along Broadway to Fourteenth Street; thence along Fourteenth Street to Cypress Street; thence along Cypress Street to the San Francisco-Oakland Bay Bridge, OR, along Fourteenth Street to Castro Street; thence along Castro Street to the rear entrance of Pacific Greyhound Lines' depot at 2047 San Pablo Avenue, City of Oakland; thence along Castro Street to San Pablo Avenue; thence along San Pablo Avenue to Market Street; thence along Market Street to Thirty-eighth Avenue; thence along Thirty-eighth Avenue to the San Francisco-Oakland Bay Bridge, OR via Broadway to and along Thirty-eighth Avenue and to the San Francisco-Oakland Bay Bridge; thence entering San Francisco on the San Francisco-Oakland Bay Bridge at the County Line, thence via said bridge to Harrison Street, to Sixth Street, to Mission Street, to Mint Street, to Jessie Street, to Pacific Greyhound Lines' depot at Fifth and Mission Streets; and/or entering San Francisco on the San Francisco-Oakland Bay Bridge at the County Line, thence via said bridge to Essex Street, to Folsom Street, to Sixth Street, to Mission Street, to Mint Street, to Jessie Street, to Pacific Greyhound Lines' depot at Fifth and Mission Streets, San Francisco.

EASTBOUND: From Pacific Greyhound Lines' depot at Fifth and Mission Streets to Mission Street, thence via Mission Street to Fifth Street, to Harrison Street, to San Francisco-Oakland Bay Bridge, leaving San Francisco on said bridge at the County Line; and/or from Pacific Greyhound Lines' depot at Fifth and Mission Streets to Mission Street, thence via Mission Street to Fifth Street, to Folsom Street, to Essex Street, to San Francisco-Oakland Bay Bridge, leaving San Francisco on said bridge at the County Line; thence along the San Francisco-Oakland Bay Bridge and Cypress Street, Oakland, to Fourteenth Street, or along said bridge and Thirty-Eighth Avenue, Oakland, to San Pablo Avenue; thence along San Pablo Avenue to Castro Street to the rear entrance of Pacific Greyhound Lines' depot at 2047 San Pablo Avenue, City of Oakland; thence along Castro Street to Fourteenth Street; thence along Fourteenth Street to Broadway; thence along Broadway to Low Level Tunnel, or along Thirty-eighth Avenue to Broadway, and thence to Low Level Tunnel.

Between Walnut Creek and Diablo through Alamo and Danville, subject to the agreement between R. Miller and Sacramento Northern Railway approved by this Commission under said Decision No. 24650.

2. Motor vehicles may be turned at termini, station, or intermediate points, either in street intersections or by operating around a block contiguous to an intersection in either direction, as required by local traffic regulations.

III

Sacramento Northern Railway may transfer, and Pacific

Greyhound Lines may acquire, the foregoing certificate, together with the equipment described in Application No. 23930, subject to prescribed service regulations and applicable general orders. The provisions of Rule 9 of General Order No. 79 and Part IV of General Order No. 93-A shall be complied with within thirty (30) days from the effective date of this order and upon not less than five (5) days' notice.

This order shall become effective on the twentieth day after the date hereof.

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.

Dated at San Francisco, California, this 19th day of March, 1941.

W. Baker
W. L. Riley

Justin P. Caswell
Francis L. Haveman
Commissioners