

Decision No. 37434

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the petition of GIBSON)
 LINES, a corporation, to sell, and of)
 BEVERLY C. GIBSON, CURTIS C. GIBSON,)
 GEORGE T. GIBSON and ANNABELLE GIBSON)
 NOSLER, co-partners doing business under)
 the firm name and style of GIBSON LINES)
 CO., to purchase the automotive service)
 for the common carrier transportation of)
 passengers, baggage and express in general)
 between San Francisco, Oakland, Sacramento,)
 McClellan Field, Roseville, Elverta,)
 Pleasant Grove and Trowbridge, Marysville,)
 Chico, Lodi, Stockton, Repressa, Elk Horn)
 Ferry, Ostrom, Wheatland, Marysville Army)
 Cantonment (Camp Beale), Chico and Chico)
 Basic Flying School, Antelope and Camp)
 Kohler, Folsom and McClellan Field, Hub)
 City Trailer Camp and Marysville, and)
 intermediate points, as a unified and con-)
 solidated operation.)

Application
No. 26279

BY THE COMMISSION:

O P I N I O N

In this proceeding, Gibson Lines, a corporation, seeks authority to transfer its operative rights as a passenger stage corporation (as defined by Section 2 $\frac{1}{2}$, Public Utilities Act), and also its operative properties, to Beverly C. Gibson, Curtis C. Gibson, George T. Gibson and Annabelle Gibson Nosler, partners doing business as Gibson Lines Co. The transferees comprise the

(1) For convenience, the transferees will be referred to, collectively, as the partnership.

(2)
transferor's principal shareholders.

Under certificates issued by the Commission, Gibson Lines conducts a passenger stage service, operating generally between San Francisco, Oakland, Sacramento, McClellan Field, Camp Kohler, Repressa, Mather Field, Roseville, Marysville, Marysville Army Cantonment (Camp Beale), Chico, Chico Basic Flying School, Lodi, Stockton and Hub City Trailer Camp, and certain intermediate points. It has applied for authority to use alternate routes in

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- (2) Of the 876 shares of capital stock of Gibson Lines, now issued and outstanding, 874 shares are held by the transferees, as shown by the latest annual report filed by that company. The remaining four shares are held by two other members of the Gibson family.
- (3) By Decision No. 35292, rendered April 28, 1942, in Application No. 24889, Gibson Lines was authorized to conduct a passenger stage service, subject to specified restrictions, generally between San Francisco, Oakland, Sacramento, McClellan Field, Roseville, Marysville, Chico, Lodi, Stockton, Repressa, Elk Horn Ferry and certain intermediate points. Passengers, baggage and shipments of express (not exceeding 100 pounds each, to be handled on passenger stages) may be transported between the following named termini and all intermediate points, subject to certain restrictions:
1. Between Sacramento and Lodi via Franklin and Thornton.
 2. Between Lodi and Stockton.
 3. Between Walnut Grove and Thornton.
 4. Between Sacramento, Walnut Grove, Rio Vista, Pittsburg, Concord, Walnut Creek, Oakland and San Francisco.
 5. Between Rio Vista and Suisun.
 6. Between Sacramento and Repressa via Mather Field.
 7. (a) Between Sacramento and McClellan Field, Roseville, Lincoln, Wheatland, Marysville, Yuba City, Gridley and Chico.
(b) Between Sacramento, North Sacramento, Pleasant Grove, Rio Oso and Marysville.
(c) Between Sacramento, Elk Horn Ferry, Verona, Nicolaus, Tudor, Oswald, Yuba City and Marysville.

Decision No. 35334, dated May 5, 1942, as amended by Decision No. 36886, dated February 15, 1944, in Application No. 24439, authorized passenger stage operation between Marysville, Ostrum and Wheatland respectively, on the one hand, and Marysville Army Cantonment (Camp Beale), situated approximately 10 miles east of Marysville, on the other hand, and intermediate points. This was consolidated with applicant's existing operations.

(Continued on page 3)

the South Marysville and Olivehurst District (Application No. 26210), and to operate between Marysville, Grass Valley and Nevada City (Application No. 26202). Both matters are pending and undetermined. Incoherent rights of this character, we have held, are not susceptible of transfer.⁽⁴⁾

Under the plan contemplated by the parties, Gibson Lines would transfer its operative rights and property to its principal shareholders, who have formed a partnership, known as Gibson Lines Co., which would continue the operation of the passenger stage service presently conducted by Gibson Lines. The mutual rights and obligations of the firm members are defined by the partnership agreement into which they have entered.

In consideration of the transfer of the property described, the partnership has agreed to pay Gibson Lines the total sum of \$197,739.80, of which \$154,342.78 is said to represent the value of the equipment, and \$43,397.02 reflects the value of the operative rights. As stated in the agreement of July 22, 1944,

(3) Continued from page 2.

Decision No. 35381, rendered May 19, 1942, in Application No. 24439, authorized operation between Chico and Chico Basic Flying School as an extension of applicant's existing service.

Decision No. 35779, rendered September 18, 1942, in Application No. 25259, authorized operation between Antelope Junction and Del Paso Park and intermediate points, via Camp Kohler, as an extension of applicant's existing operations.

Decision No. 36092, rendered January 5, 1943, in Application No. 25400, authorized operation between Folsom and McClellan Field and intermediate points, subject to certain restrictions.

Decision No. 36876, rendered February 15, 1944, in Application No. 25985, authorized operation between Hub City Trailer Camp and Marysville and intermediate points, subject to certain restrictions, as an extension of existing operations.

(4) Re Valley and Coast Transit Co. (Dec. 19262) 21 C.R.C. 73, 75.

between the parties, a copy of which accompanies the application, the price has been apportioned as follows:

Busses and bus equipment	\$119,487.94
Land and structures	15,867.50
Service cars and equipment	4,307.45
Furniture and fixtures	7,216.90
Shop and garage equipment	3,790.73
Inventory of materials	842.62
Prepayments on insurance policies, etc.	2,829.64
Operative rights	<u>43,397.02</u>
Total	\$197,739.80

Upon approval of the transfer by the Commission, the purchase price will be paid, either in cash for the full amount of \$197,739.80, or by the assumption by the partnership of the transferor's liabilities. Should such liabilities amount to less than the total purchase price, the balance will be paid in cash.

It will be observed that applicants assign to operative rights a value of \$43,397.02. Section 52 of the Public Utilities Act reads in part as follows:

"The Commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right;..."

While this application does not involve the issue of any securities, we will not recognize a value of \$43,397.02 in the operative rights. In our opinion, only such sum included therein as represents payments made to the State of California should be charged to Account 1511, Franchises. Our study shows this sum to be \$1,500. The remainder, if recorded on the books of the partnership, should be charged to Account 1550, Other Intangible Property,

and amortized within three years after the acquisition of the properties by charges to Account 2810, Partnership Capital.

One-fourth of the Partnership Capital will be contributed by each partner. The partnership, it was shown, is financially able to carry on the business. In our judgment, the transfer should be authorized; and the application, accordingly, will be granted. This is not a matter requiring a public hearing.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Beverly C. Gibson, Curtis C. Gibson, George T. Gibson and Annabelle Gibson Nosler, partners doing business as Gibson Lines Co., are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Application having been made as above entitled, and the Commission now being fully advised,

IT IS ORDERED as follows:

(1) That Gibson Lines, a corporation, be and it hereby is authorized, on or before January 30, 1945, to transfer to Beverly C. Gibson, Curtis C. Gibson, George T. Gibson and Annabelle Gibson Nosler, co-partners doing business as Gibson Lines Co., the operative rights and property described in the foregoing opinion; and Beverly C. Gibson, Curtis C. Gibson, George T. Gibson and Annabelle Gibson Nosler, co-partners doing business as Gibson Lines Co., are hereby authorized to acquire from Gibson Lines the said operative rights and property, and thereafter to operate under said operative rights.

(2) That if Beverly C. Gibson, Curtis C. Gibson, George T. Gibson and Annabelle Gibson Nosler, co-partners doing business as Gibson Lines Co., acquire said operative rights and pay therefor the sum of \$43,397.02, only such portion of said \$43,397.02 as represents payments to the State of California may be charged to Account 1511, Franchises. The remainder of said \$43,397.02 shall be charged to Account 1550, Other Intangible Property, and amortized within three years after the acquisition of said properties by charges to Account 2810, Partnership Capital.

(3) That applicants shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.

(4) That in the event such authority to transfer is exercised, Beverly C. Gibson, Curtis C. Gibson, George T. Gibson

and Annabelle Gibson Nosler, co-partners doing business as Gibson Lines Co., shall notify the Commission thereof within ten (10) days after the actual date of transfer.

Except as otherwise herein provided, the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 31st day of October, 1944.

Richard L. Lach
Justice J. C. Cramer
Francis D. Havenue
Thomas W. Cline
Scott Lawrence
COMMISSIONERS