

Decision No. 43034

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
 PACIFIC GREYHOUND LINES, a corporation,)
 for authority to sell and transfer to)
 P. B. HACKLEY, JR., doing business as)
 MENDOCINO TRANSIT COMPANY, its intra-)
 state operative rights for the trans-)
 portation of passengers, baggage and)
 express between Petaluma and Leggett)
 Valley and intermediate points.,)

Application No. 29974

Douglas Brookman, for Pacific Greyhound Lines.
P. B. Hackley, Jr., in propria persona.
George Myland, City Councilman of the City of Point
 Arena; M. J. Pelascio, Mayor of the City of
 Point Arena; Fred L. Garrett, Chairman, Point
 Arena Farm Center, and E. L. Walker, Garcia
 Grange No. 676, protestants.

O P I N I O N

The above entitled matter is a joint application in which Pacific Greyhound Lines, and P. B. Hackley, Jr., doing business as Mendocino Transit Company, request the Commission to authorize the former to sell and the latter to buy a passenger stage operative right between Petaluma and Leggett Valley via Two Rock, Fort Bragg and Rockport. A public hearing was had before Examiner Paul at Point Arena on April 18, 1949, and the matter was submitted.

The operative right proposed to be transferred connects at Petaluma and Leggett Valley with the seller's main line operation between San Francisco and Eureka via Santa Rosa. The sale and transfer would be made pursuant to the terms of an agreement attached

(1) Pacific Greyhound Lines will be referred to as the seller, or Greyhound, and P. B. Hackley, Jr., doing business as Mendocino Transit Company will be referred to as the buyer or Hackley.

to the application and marked Exhibit "B". No physical property is involved. The price proposed to be paid for the operative rights is \$11,000 payable as follows: \$100 within 5 days after the proposed sale and transfer shall have been approved by the Public Utilities Commission, and the remainder of \$10,900 to be paid in monthly installments of \$100 on the first day of each calendar month thereafter with interest at the rate of 4 per cent per annum to be computed and paid monthly on the unpaid balance at the same times as payments are made on the principal.

The operative rights between Petaluma and Rockport were created by Decisions Nos. 34300 and 36653, in Applications Nos. 23698 and 25805, respectively. Decision No. 36823, in Application No. 25929 authorized the seller to acquire those rights. The operative rights between Rockport and Leggett Valley were granted to the seller by Decision No. 41546, as amended by Decision No. 41757, in Application No. 29273. Operations under the latter right are conducted on a seasonal basis between the approximate dates of June 15 and September 15 of each year. Passengers, baggage and shipments of express weighing not in excess of 100 pounds each on passenger carrying vehicles may be transported pursuant to those rights.

According to the evidence, the seller sustained a net operating loss from that operation for the years 1946, 1947 and 1948 in that order as follows: \$7,226, \$9,525 and \$13,175. A summary of this information taken from Exhibit No. 1 is set forth in the

(2)
margin.

An officer of the seller testified that notwithstanding the slight increase in the number of passengers transported over the line involved during 1948 as compared to 1946, there has been a continuing increase in the cost of conducting the operation brought about by increases in costs of fuel, repairs, maintenance, wages and other items. It was his opinion that the buyer, with headquarters at Fort Bragg, would be in a better position to give closer and more effective supervision and attention to the operation, thereby enabling the buyer to conduct the service at a lower cost than is possible for the seller.

The buyer is now conducting a passenger stage service, one round trip daily, between Fort Bragg and Santa Rosa via Booneville and Cloverdale. Between Fort Bragg and Navarro River Junction, a distance of about 21 miles, the route is the same as that used by the seller. The buyer also conducts service over another route between Fort Bragg and Willits on a basis of one round trip a week. In addition he conducts a similar service on Tuesday of each week between Fort Bragg and Colusa, and on Monday of each week between Fort Bragg and Woodland including all intermediate points. The buyer also conducts a separate local operation within the City of

(2)	1946		1947		1948	
		<u>Per Mile</u>		<u>Per Mile</u>		<u>Per Mile</u>
Bus Miles Operated	117,297		114,162		124,839	
Operating Revenue	\$20,000	.17051	\$19,914	.17444	\$20,288	.16251
Operating Expenses	\$27,226	.23212	\$29,440	.25788	\$33,463	.26805
Net Operating Loss	\$ 7,226	.06166	\$ 9,525	.08344	\$13,175	.10554
Passengers carried	19,792		19,697		20,263	

Napa and between Napa and adjacent areas, known as the Napa Bus Lines.

Mr. Hackley testified that he has sufficient extra equipment of a type suitable to provide service comparable to that presently conducted by the seller between Petaluma, Fort Bragg and Leggett Valley. He stated that he has been constantly engaged in the passenger stage business for many years under the authority of the Commission and that a great many of the passengers which he transports between Fort Bragg and Santa Rosa are destined to or originate at San Francisco and are interchanged with the seller at Santa Rosa. Passengers could also be interchanged at Petaluma if the transfer should be authorized.

The buyer estimated that he could produce from the proposed operation monthly gross operating revenue of \$2,382, with gross operating expenses of \$1,794, which would result in a net operating income before taxes of about \$588. Annualized, those estimates would be \$28,584, \$21,528 and \$7,056 respectively. He would operate approximately 122,000 miles a year at an estimated cost per mile of about 17.6 cents. The buyer further testified that recently he had obtained an agency at Fort Bragg from the Western Union Telegraph Company from which he would derive an annual income of about \$3,600 without additional expenses. Approximately \$400 annually would be derived from two ticket agencies at Fort Bragg contingent upon acquisition of the operative rights as sought. The total of the estimated annual net operating income would therefore be approximately \$11,056.

The evidence shows that the buyer's operations during the calendar year 1948, except that at Napa, produced a gross operating income of \$59,781 and gross operating expenses of \$56,076,

showing an operating profit of \$3,704, resulting in an operating ratio of 93.3 per cent. During the same period the Napa Bus Lines operation produced a gross operating revenue of \$36,440, gross operating expenses of \$34,410 with a net operating profit of \$2,029 with an operating ratio of 94.4 per cent.

The evidence of record shows that the buyer has total assets of about \$47,000 and liabilities of about \$35,700, applicable to his Mendocino Transit Company operation, and total assets of \$16,652 and liabilities of \$9,511, appertaining to his Napa Bus Lines service. The liabilities consist of obligations on equipment, terminal garages, taxes, current accounts payable and miscellaneous items.

The City Council of Point Arena and others protested the proposed transfer. A number of public witnesses were called most of whom gave testimony in regard to their experience with Hackley's service between Fort Bragg and Santa Rosa. A witness who operates an auto repair shop at Point Arena expressed the opinion that the buyer's proposed time schedule would not provide an adequate service for emergency shipments of repair parts from Fort Bragg, Santa Rosa or Petaluma. Other witnesses expressed the opinion that the equipment which he would use is not adequately maintained; is less comfortable than that used by the seller and because of the winding, mountainous and hazardous character of the route involved, operations by the buyer would be more dangerous for the users than that provided by the seller.

It was shown that the buyer is a self-insurer of his present operations and witnesses expressed the view that because of that fact he should not be authorized to acquire the rights as

proposed. The buyer stated that adequate public liability and property damage insurance would be obtained. Witnesses expressed the fear that he is unable financially to maintain the service on an enduring basis. It was pointed out that the Director of Internal Revenue had filed notice of a tax lien on Hackley's passenger stage equipment. Obviously if he should be deprived of the use of this equipment he would not be able to continue his operations. However, that possibility is not disclosed in the record. The officer of Greyhound previously referred to, stated that the seller would re-establish the service if for any reason the buyer should be unable to continue operation. It was the concensus of those who protested the proposed transfer that the buyer would be unable to continue service in which event the area would be without public transportation. It was their desire that the seller be required to continue operations.

While the Commission appreciates the misgivings expressed by the protestants, it feels, however, in the light of the evidence in this record, that the buyer, with his long experience, and, upon acquisition of the operative rights as requested, will be able to provide an adequate service and improve his current earnings. Although we believe he is capable of continuing the operation on an adequate basis it must be recognized that there is a possibility that his earnings and financial resources might be insufficient to meet his indebtedness and render it impossible for him to continue all of his operations. The evidence shows that his present operations are producing a surplus, although relatively small, which is being used to retire his obligations, a substantial portion of which would be discharged within a few months.

After full consideration of all the material facts of

record, it is our judgment that the authority sought should be granted. However, in the light of the facts of record, such authority will be conditioned upon the filing of a stipulation, satisfactory to the Commission, that Pacific Greyhound Lines will immediately seek appropriate authority to re-establish the service if at any time within 18 months from the effective date hereof Hackley should discontinue the operation. In as much as the agreement of sale provides for the payment of the agreed consideration by installments maturing at periods of more than 12 months after the date of the agreement, it constitutes an evidence of indebtedness coming within the provisions of Section 52 of the Public Utilities Act. The order will authorize applicants to execute the agreement, subject to the payment of the minimum fee of \$25 required by Section 57 of the Public Utilities Act.

The authority herein granted shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred. The proposed transfer does not appear to be adverse to the public interest and will be authorized. ✓

O R D E R

✓ An application therefor having been filed with the Commission, a public hearing having been had thereon and it being hereby found that the money, property or labor to be procured or paid for by the execution of the agreement marked Exhibit "B" and attached to the application is reasonably required by P. B. Hackley, Jr. for the purpose specified herein and that the application should be granted as provided herein, therefore,

IT IS ORDERED as follows:

- (1) That after the effective date hereof and on or before

August 31, 1949, Pacific Greyhound Lines and P. B. Hackley, Jr. may execute an agreement of sale in substantially the same form as that set forth in the agreement attached to the application herein and marked Exhibit "B" and carry out the terms thereof, and Pacific Greyhound Lines may transfer to P. B. Hackley, Jr. and the latter may acquire from the former the operative rights referred to in the foregoing opinion pursuant to the terms of that agreement, subject to the following conditions:

- a. That Pacific Greyhound Lines shall file with the Commission a stipulation that in the event P. B. Hackley, Jr. discontinues or abandons passenger stage operations under the operative rights herein authorized to be transferred to said P. B. Hackley, Jr., said Pacific Greyhound Lines shall immediately file with the Commission an appropriate application requesting authority to re-establish the passenger stage operations between the points involved in this proceeding, such stipulation to be in effect for a period of eighteen (18) months after the transfer of said operative rights to P. B. Hackley, Jr.
- b. That within 30 days after consummation of the transfer herein authorized P. B. Hackley, Jr. shall notify the Commission in writing of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
- c. That after the effective date hereof and on or before August 31, 1949, applicants shall comply with the provisions of General Orders No. 79, 80 and 93-A, by filing in triplicate and concurrently making effective appropriate tariffs and time tables on not less than 5 days' notice to the Commission and the public.

(2) That this order shall become effective when Pacific Greyhound Lines has filed the stipulation provided for in paragraph (1) of this order and when P. B. Hackley, Jr. has paid the minimum fee required by Section 57 of the Public Utilities Act, but not less than 20 days after the date hereof.

Dated at San Francisco, California, this 21st
day of June, 1949.

R. E. Johnson
Justin F. Galloway
Leopold Kuehl
Harold P. Hicks
Herbert P. Patten
Commissioners

