

**ORIGINAL**Decision No. 52394

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GREYHOUND LINES )  
 for authority to change its route of )  
 operation between Roseville and ) Application No. 35872  
 Sacramento. )  
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Douglas Brookman and Earl Bagby, for  
 Pacific Greyhound Lines, applicant.  
Warren P. Marsden, for the State Department  
 of Public Works, protestant.  
K. F. Hensel, for Gibson Lines, interested  
 party.  
Charles W. Overhouse, for the Commission staff.

O P I N I O N

Pacific Greyhound Lines requests authority to reroute its operations between Sacramento and Roseville in order to use a newly relocated portion of U. S. Highway 40. This new alignment extends for a distance of more than 8 miles between the points referred to by applicant as Florida Inn Junction and Roseville Junction. These points are the junction points of the new highway and the old U. S. Highway 40. The section of the present alignment of U. S. Highway 40 between Florida Inn Junction and the northeasterly end of the North Sacramento freeway near Ben Ali, over which applicant would continue to operate, is also being reconstructed to the same full freeway standards as the new portion first mentioned. The character of the construction along the old and the new alignments of U. S. Highway 40 between Sacramento and Roseville Junction is such that upon its completion the highway will be a full freeway in that no public or private roads will intersect the freeway at grade. (Exhibit No. 5)

A public hearing was held thereon at Sacramento on March 18, 1955, before Examiner Leo C. Paul and the matter was submitted. Statements of position and points and authorities were filed at the hearing by applicant and the Department of Public Works. The latter will hereinafter be referred to as the Department.

Applicant's superintendent of transportation testified that use of the new alignment of U. S. Highway 40 would shorten applicant's route between Sacramento and Roseville by approximately 1-1/2 miles. The present distance between applicant's terminals at each of those points is 18.9 miles, over the present route, and 17.4 miles over the proposed new route. The witness testified that applicant operates 16 round trip schedules daily between Sacramento and Roseville during the winter time and about 10 schedules more than that during the summer time. During the winter 42 to 43 buses are operated on each of the 32 one-way schedules on week days and approximately 70 buses on the same schedules on weekends. This would increase substantially during the summer. During midweeks of winter approximately 1,000 passengers are transported daily on those schedules and approximately 1,700 passengers on weekends. If applicant is authorized to use the shorter route it would be able to save approximately eight minutes on each schedule and provide more on-time performance because of less traffic congestion on the new highway. In the witness' opinion this would result in considerable saving and would have a tendency to reduce accident liability and costs of operation.

The same witness stated that applicant's operation over the routes involved herein is subject to restrictions in its

operative rights which prohibit picking up or discharging any traffic along the route between Sacramento and Roseville except traffic having origin or destination east of Roseville or north of Chico. According to the witness applicant is also prevented from picking up or discharging any traffic along the route intermediate to Sacramento and Roseville destined to or originating at any points west or south of Sacramento. A passenger desiring to travel to any of the latter points must obtain transportation from Sacramento. There are other restrictions affecting this route. Because of these restrictions contained in applicant's operative authority local traffic in the Sacramento-Roseville area was expressed by the witness as being nil. Regardless of this, however, applicant objects to any further limitation or restriction on its use of the new alignment of U. S. Highway 40 as suggested by the Department and discussed below. The new highway will be opened for use during the latter part of this year.

Applicant's regional manager stated that the present highway used by applicant between Sacramento and Roseville is four lanes wide from Sacramento for a distance of approximately 1-1/2 miles. For the next 1-1/2 miles it is three lanes wide and the remainder of the highway to Roseville is but two lanes wide. During the morning and evening peak periods of about two hours each, the congestion of traffic is quite heavy delaying applicant's schedules from five minutes to as much as 35 minutes each.

In opposition to applicant's proposal the Department's engineer of design described the development of the new freeway between Sacramento and Roseville. He said its first segment is the present North Sacramento freeway between Sacramento and Ben Ali, which is a full freeway in the sense that all access thereto is

completely controlled. There is no private access allowed from adjacent property and all intersecting streets are at separated grades. The newly developed freeway extends from Ben Ali, the present terminus of the North Sacramento freeway, to Roseville. It will be a full freeway also in the same sense as the North Sacramento freeway. The witness said that in his opinion the stopping of Greyhound buses within the limits of either the present North Sacramento freeway or of the new Ben Ali-Roseville freeway for the purpose of picking up and discharging passengers would be objectionable from the standpoint of other traffic on the freeway and definitely hazardous. It would be objectionable according to the witness because any time a vehicle slows down in traffic, such as that on the North Sacramento freeway, following vehicles are also required to slow down, thus creating a traffic hazard. The same condition would exist if a bus slows down to pull off the highway to stop on the shoulder. If the bus fails to accelerate to the same speed of other traffic when returning to the travel lanes of the highway the following vehicles must either slow down or assume the risk of collision. This hazard would exist regardless of the type or kind of motor vehicle. The witness asserted that in his opinion there are certain hazards to pedestrians standing near a highway over which vehicles are traveling at high speed. Also vehicles tend to veer away from persons standing near or crossing the roadway thereby creating traffic hazards.

On cross-examination the witness stated that upon the completion of the realignment of U. S. 40 now under construction a full freeway will exist practically the entire distance from Sacramento to Roseville.

It should be noted that applicant is presently authorized to use North Sacramento Freeway as an "alternate route".<sup>(1)</sup> No traffic may be picked up or discharged along the "alternate route".

There is but one issue presented here. Should applicant be authorized to use the new freeway from Ben Ali to Roseville Junction as a "regular route", as requested, or should a specific restriction be imposed prohibiting applicant from stopping within the limits of the freeway to pick up or discharge traffic? The Department insists upon the imposition of the restriction directly, or impliedly by designating the route as an "alternate route". Applicant contends the route cannot be an "alternate route" in any sense, as it will be the only route between Ben Ali and Roseville, and objects to any restriction, specific or implied, which will prohibit it from stopping within the limits of the freeway. Applicant urges that the Vehicle Code, the Commission's General Orders and its own company rules in regard to handling buses on the highways in a safe and prudent manner obviate the necessity for the imposition of the restriction sought. Applicant further asserts that it does not view the authorization and the duty to serve all intermediate points as an independent authorization — supreme over the traffic laws prescribed by the Vehicle Code

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(1) Decision No. 47907 in Appendix A thereof defines "alternate routes" as follows:

"Alternate Routes:

"Routes hereinafter designated as "alternate routes" are routes which are in addition to the regular routes between the named termini, and are authorized for operating convenience, to be operated at the option of the company, provided, however, no service may be rendered to or from any intermediate point or points thereon."

and the safety regulations provided by the Commission's general orders. On the contrary, applicant states that while the authority sought is for regular route operation because it is to be the only route operated between the points involved, it does not expect to stop its buses for traffic at any point where such stop would be in violation of applicable laws, rules or regulations or the common sense rule of safety to its traffic or the general traffic on the highway.

In its statement of position the Department maintained that whenever the Division of Highways has constructed a full or a limited freeway along an existing state highway applicant has immediately applied to the Commission for authority to operate thereover. In most cases the proposal has been to operate over such freeway as an "alternate route". The Department in reviewing the lengthy historical development of applicant's use of freeways notes the fact that in 1947 the Commission authorized it to use the North Sacramento Freeway ". . . provided that no passengers, baggage or express may be picked up or discharged on the freeway." The Department states this restriction had served as a precedent in numerous other matters involving applicant's use of other freeways. However, the Department notes, in 1952 the Commission by its Decision No. 47907 restated all of applicant's operative authority and in so doing declined to attach specific restrictions prohibiting applicant from picking up or discharging traffic along those freeways where such restrictions had formerly existed. Instead, such routes were designated as "alternate routes" defined as noted in the margin, supra.

At the same time the Commission also declined to limit or restrict in any manner applicant's operations over routes used

for many years which subsequent to certification had been reconstructed to full freeway standards.

The Department contends that the present application involves an entirely new situation, in that applicant seeks regular route authority on a full freeway being constructed on a new alignment. Therefore the theories of "alternate route" authority or prior authority over a conventional highway are not applicable. We see no merit in such contention. However, on the basis of that contention the Department urges that the application be determined on its merits with relation to the physical facts involved and with reference to the operative rights possessed by applicant on the connecting North Sacramento Freeway (an alternate route) <sup>(2)</sup> but without in any way considering former action by the Commission in promulgating Decision No. 47907, supra, as a precedent for decision herein.

Use of the new freeway by applicant would not be without limitation or restriction (in a literal sense) as applicant and all other users of the highway are bound by the provisions of the Vehicle Code with respect to stopping on highways (Section 582, Vehicle Code). Also, applicant, and all other certificated automotive carriers, are bound by the Commission's general orders to comply strictly with the provisions of the Vehicle Code when not in conflict and not inconsistent with the provisions of such

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(2) There is pending before the Commission Application No. 36917 in which Pacific Greyhound Lines also requests that the North Sacramento Freeway be designated as a regular route in consonance with applicant's request herein for authority to use the Ben Ali-Roseville Freeway as a regular route.

orders and to operate vehicles in a safe, prudent and careful manner with due regard to traffic conditions on the highways.

In our judgment the Department has not produced sufficient evidence to justify imposition of the restriction sought. This freeway extends for several miles through a largely undeveloped rural area without access to facilities usually found along highways, except at widely separated points. Until it is shown that the operations of applicant are in fact conducted in a manner which is contrary to public safety there is no basis for a finding that such operations will be so conducted. Anticipation that applicant in the future might operate its buses in a hazardous manner or stop at unsafe places is not evidence of existing facts upon which a restriction may be based.

After full consideration of all the evidence of record and the stated positions of the parties herein the Commission finds that public convenience and necessity require the establishment and operation of regular route passenger stage service over the route as proposed by applicant. The application will be granted.

O R D E R

An application therefor having been filed, a public hearing having been held thereon and it having been found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Pacific Greyhound Lines authorizing the establishment and operation of service as a passenger stage corporation, as that term is defined in Section 226 of the Public Utilities Code, for the transportation of passengers, baggage and express between the points and over the route set forth in Route No. 3.01 appearing on First Revised Page 13 attached hereto as Appendix A. This

certificate is granted as an extension and enlargement of, consolidation with and subject to all the limitations and restrictions set forth in the certificate of public convenience and necessity granted by Decision No. 47907 in Application No. 31883 and in particular subject to provisions set forth in Section 3 of Appendix A thereof.

(2) That Route 3.01 appearing at Original Page 13 of Appendix A attached to Decision No. 47907 is hereby amended as set forth in First Revised Page 13 of Appendix A attached hereto.

(3) That Appendix A of Decision No. 47907 is hereby amended by incorporating therein said First Revised Page 13.

(4) That in providing service pursuant to the certificate granted herein, applicant shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- b. Within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, appropriate tariffs and timetables.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of December, 1955

*E. N. Mitchell*  
President

*Justin J. Adams*

*Rachel Lutz Greiner*

*William J. ...*

*B. V. Hunt*  
Commissioners

## ROUTE GROUP 3

- \*3.01 - Between the Nevada-California State Line east of Floriston and Sacramento:

From the point where U.S. Highway 40 intersects the Nevada-California State Line, over U.S. Highway 40 to northerly junction with North Sacramento Freeway (North Freeway Junction), thence over unnumbered highway via North Sacramento to southerly junction with North Sacramento Freeway (South Freeway Junction), thence over U.S. Highway 40 to Sacramento, including necessary deviation therefrom to serve Colfax and Auburn.

- 3.02 - Between North Freeway Junction and South Freeway Junction:

From the northerly junction of former U.S. Highway 40 and North Sacramento Freeway (North Freeway Junction), over U. S. Highway 40 (North Sacramento Freeway) to southerly junction with former U.S. Highway 40 (South Freeway Junction), to be operated as an alternate route.

- 3.03 - Between the Nevada-California State Line east of Lakeside and Sacramento:

From the point where U.S. Highway 50 intersects the Nevada-California State Line, over U.S. Highway 50 to junction former U.S. Highway 50 (East Folsom Junction), thence over former U.S. Highway 50 via Folsom and Nimbus to junction present U.S. Highway 50 (West Folsom Junction), thence over present U.S. Highway 50 to Sacramento.

- \*\*3.04 - Between the Nevada-California State Line at Cal-Neva and Tahoe City:

From the point where California Highway 28 contacts the Nevada-California State Line, over California Highway 28 to junction California Highway 89 (Tahoe City).

- 3.05 - Between Truckee and Tahoe Valley Junction:

From Truckee, over U.S. Highway 40 to junction California Highway 89 (Tahoe Junction), thence over California Highway 89 to junction U.S. Highway 50 (Tahoe Valley Junction).

Issued by Public Utilities Commission of the State of California

\*Changed  
 \*\*Highway number only change ) by Decision No. 52394 Ap. No. 35872  
 Correction No. 114