

ORIGINAL

Decision No. 92617 January 21, 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of RBR Corporation, a Nevada)
corporation, for authority to)
acquire a passenger stage)
certificate of public convenience)
and necessity of Donna L. Goodner)
and Richard T. Langan, Jr., dba)
Truckee Stage Company.)

Application No. 59328
(Filed December 12, 1979)

Roy B. Roach, for RBR Corporation, applicant
Irwin Borof, Attorney at Law, for Gray Line
Scenic Tours, protestant.
William A. Piper, for Lake Tahoe Transportation
Systems, Inc., interested party.

O P I N I O N

Donna L. Goodner and Richard T. Langan, Jr. (sellers),
doing business as Truckee Stage Company, seek authority to sell and
transfer and RBR Corporation (purchaser), doing business as Casino
Limousine, seeks authority to purchase and acquire the certificate of
public convenience and necessity granted in Decision No. 88478 dated
February 7, 1978 in Application No. 57627. The consideration for sale
and transfer of the certificate is \$700.

The certificate authorizes transportation between Tahoe-
Truckee Airport, on the one hand, and Tahoe City, California-Nevada
Stateline, Tahoma, and Tahoe-Donner subdivisions, on the other hand.
Purchaser desires to operate the above service on an unscheduled
basis.

Public hearing was held before an Administrative Law Judge in San Francisco on June 5, 1980 and the matter was submitted. The application was protested by Gray Line Scenic Tours, Inc. (Gray Line) which holds a certificate as a passenger stage corporation for service between Tahoe Valley Airport (South Lake Tahoe) and points on U.S. Highways 50 and 89. Gray Line also holds a Class "A" certificate as a charter-party carrier of passengers, as does its subsidiary Airport Charter Lines, Inc. Gray Line's protest is based on the fitness of purchaser to operate as a passenger stage corporation.

Roy B. Roach, president of purchaser, testified on its behalf. According to Roach, the proposed transfer will be in the public interest for the following reasons: sellers have determined to discontinue their passenger stage operations for business reasons. Roach has been in the transportation business for several years and holds temporary authority from the Interstate Commerce Commission (ICC) authorizing passenger operations between points in California and points in Nevada. Purchaser has the financial ability and equipment to operate the service. Purchaser owns 11 vans having seating capacities of 18 or 20 passengers. Purchaser's balance sheet of June 30, 1979 shows a stockholder's equity of \$14,046. That document also shows a net operating loss for the 12 months ended June 30, 1979 of \$105,834.

The following exhibits were introduced by Gray Line. Exhibit 2 contains the orders of the Public Service Commission of

Nevada (PSCN) finding that Casino Limousine Minibus Service, ✓
and RBR Corporation conducted an unlawful common carrier service by
the operation of shuttle bus operations between casinos and hotels in
Reno without PSCN authority. Exhibit 3 is a copy of judgment in the
Justice Court of Reno Township, Tahoe County, Nevada, finding RBR
Corporation and Roy Roach, dba Casino Limousine Minibus Service,
guilty of giving a rebate and offering free transportation in
connection with operations as a common motor carrier. Exhibit 4 is a
citation to a driver of RBR Corporation's bus alleging common carrier
operations without a certificate between points in Nevada. The
citation is dated May 30, 1980. Exhibit 6 is PSCN's order dated
November 13, 1979 canceling certificate of public convenience and
necessity CPC A-2266 issued to RBR Corporation, dba Casino Limousine
Minibus Service, for transportation of passengers between Reno and
Sparks based on a signed statement of Roy B. Roach, president,
advising that operations were no longer being conducted under the
certificate and requesting cancellation.

Exhibit 8, also introduced by Gray Line, contains excerpts
from yellow page advertising in Reno-Lake Tahoe area telephone
directories indicating that Casino Limousine Minibus Service serves
Reno and Lake Tahoe (north and south shore) with limousine and mini-
buses.

Exhibit 9, presented by Roach, is a copy of the temporary operating authority granted by the ICC to RBR Corporation, dba Casino Limousine, authorizing operations as common carrier of passengers between Reno International Airport, Nevada, and South Lake Tahoe, California. The temporary authority served August 7, 1979 has been extended indefinitely pending disposition of RBR Corporation's corresponding permanent authority application.

Exhibit 10 is a business card stating that Casino Limousine Minibus Service provides on-call door-to-door service and telephone numbers to call at Reno and Incline Village (Caesars Tahoe Casino), Nevada.

Roach presented rebuttal testimony designed to show that mitigating circumstances existed in connection with violations found by PSCN. According to Roach the violations occurred in connection with casino-casino or casino-hotel service, which Roach believed could be conducted as part of the casino-airport service authorized by PSCN. When he found that such operations could not be conducted, Roach requested termination of RBR Corporation's PSCN authority.

Gray Line presented two witnesses who are employed by it to describe the circumstances under which the citation was issued as documented in Exhibit 4. According to the witnesses, RBR Corporation was requested and furnished transportation between Reno and Virginia City and return for which RBR Corporation had no PSCN authority. Roach testified that the original request was for service between Reno

and Lake Tahoe via Virginia City for which RBR Corporation has ICC authority but that upon arrival at Virginia City, the request was made to return Gray Line's employees to Reno.

William Piper, president of Lake Tahoe Transportation System, Inc., testified that he and Roach are working on an agreement to possibly link Casino Limousine operations with those of South Lake Tahoe Transportation System, Inc. If such agreement is reached, South Lake Tahoe Transportation System, Inc. would operate the coordinated transportation systems. Piper believes that there is a large unfulfilled need for public transportation services in the greater Lake Tahoe area, and intends to expand operations of his company to fulfill that need.

Discussion

It is the view of Gray Line that RBR Corporation is unfit and unqualified to operate as a passenger stage corporation because of the 15 incidents of illegal operations found to have occurred by PSCN or alleged in citations issued by PSCN.

Roach argued that he has conducted daily operations under RBR Corporation's interstate authority since March 1978 and has received no citations for violations of that authority. Roach pointed out that sellers are not furnishing service and that an essential transportation need will remain unfulfilled unless operations are conducted under the certificate in issue. Roach stated that RBR

Corporation has the equipment and personnel to provide service under that certificate.

While we recognize that Roach has violated Nevada statutes in connection with his operations of Casino Limousine Minibus Service, he has apparently conducted interstate bus operations without incurring violations of the Interstate Commerce Act. The service for which a certificate was issued to sellers is an important link in the public transportation system of the greater Lake Tahoe region. Roach has the experience and RBR Corporation has the equipment and personnel to successfully operate the certificate to be transferred. Weighing RBR Corporation's past illegal operations in Nevada against reinstatement of an essential public transportation service, we must conclude that proposed transfer will be in the public interest. However, to ensure that purchaser will comply with applicable California statutes and the orders and rules of this Commission, the certificate issued in this proceeding will be conditioned to expire two years after its issuance, pursuant to Section 1032 of the Public Utilities Code. In order to renew or transfer the certificate, purchaser will be required to file an application showing that the service under the certificate had been conducted lawfully and that it meets the public transportation needs of the area served. The application should be filed four months before the end of the two years. If the Commission staff, after review and investigation, believes the application can be processed ex parte we will not hold hearings.

Findings of Fact

1. Purchaser has the experience, facilities, equipment, and financial ability to operate the service sought to be transferred.

2. Purchaser has conducted intrastate passenger operations in Nevada without proper authority.

3. Purchaser has conducted interstate operations between California and Nevada. No allegations of illegal operations have been made in connection with that authority.

4. Past illegal operations in Nevada require future review of the purchaser's operations.

Conclusions of Law

1. The proposed transfer is not adverse to the public interest and should be authorized subject to the conditions specified in the order.

2. The order which follows should provide for, in the event the transfer is completed, the revocation of the certificate presently held by sellers and the issuance of a certificate in appendix form to RBR Corporation.

3. The reissued certificate should provide for on-call service.

Purchaser is placed on 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, such rights extend to the holder a full or partial monopoly of

a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before April 30, 1981 Donna L. Goodner and Richard T. Langan, Jr., dba Truckee Stage Company, may sell and transfer the operative rights referred to in the application to RBR Corporation.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the transfer. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79-Series and 98-Series. Failure to comply with

the provisions of General Orders Nos. 70-Series and 98-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the transfer, the purchaser shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to RBR Corporation, a Nevada corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes set forth in Appendix A of this decision.

6. The certificate of public convenience and necessity granted by Decision No. 88478 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules administered by the California Highway Patrol, the rules and regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.

8. The certificate granted RBR Corporation pursuant to Ordering Paragraph 5 of this order shall terminate two years after the effective date of this order. Any application for renewal of that certificate, in addition to the requirements set forth in the Commission's Rules of Practice and Procedure, shall show that operations under the certificate granted in Ordering Paragraph 5 have been conducted lawfully and that service under that certificate adequately meets the public transportation needs of the area served.

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

Dated JAN 21 1981, at San Francisco, California.

John E. Guyon
President
Richard D. ...
Thomas W. ...

Commissioners

T/FRC

Appendix A

RBR CORPORATION
Doing Business As
TRUCKEE STAGE COMPANY

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-1032

Showing passenger stage operative rights, restrictions, limitations, exceptions and privileges applicable thereto.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made as revised pages or added original pages.

Issued under authority of Decision No. **92617**
dated JAN 21 1981, of the Public Utilities Commission
of the State of California, in Application No. 59328.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

RBR Corporation, doing business as Truckee Stage Company, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized as a passenger stage corporation to transport passengers and their baggage on an on-call basis between the Truckee-Tahoe Airport and the bus and rail depots in Truckee, on the one hand, and Squaw Valley, Alpine Meadows, Tahoe City, Tahoma, North Star, Kings Beach, Brockway, Prosser Lakeview Estates, Tahoe-Donner Subdivision, Donner Lake, and certain intermediate points, on the other hand; over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (a) Motor vehicles may be turned at termini and intermediate points in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction they apply in either direction unless otherwise indicated.
- (c) The term "on-call" as used herein refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs and timetables shall show the conditions under which each authorized "on-call" service will be rendered.

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Decision No. 92617, Application No. 59328.

SECTION 2. ROUTE DESCRIPTIONS.

Route 1 - Truckee-Tahoe Airport - Tahoe City, California

Commencing at the Truckee-Tahoe Airport, over and along State Highway 267 northerly to Truckee, thence over and along the most convenient and appropriate roads and streets to State Highway 89, south to Squaw Valley Road, to Squaw Valley, thence return to State Highway 89, south to Alpine Meadows Road, to Alpine Meadows, thence return to State Highway 89, south to Granlibakken Road to Granlibakken Olympic Hill, thence return to State Highway 89, north to Tahoe City, returning over the same route.

Route 2 - Truckee-Tahoe Airport - California/Nevada State Line

Commencing at Truckee-Tahoe Airport, over and along State Highway 267 south to Kings Beach, thence via State Highway 28 east to California/Nevada State Line, returning over the same route.

Route 3 - Truckee-Tahoe Airport - Tahoma, California

Commencing at Truckee-Tahoe Airport, over and along State Highway 267 south to Kings Beach, along Highway 28 west to Tahoe City, along Highway 89 south to Tahoma, returning over the same route.

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Appendix A

WDR CORPORATION
Doing Business As
TRUCKEE STAGE COMPANY
(PSC - 1032)

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SECTION 2. ROUTE DESCRIPTIONS. (Continuation)

Route 4 - Truckee-Tahoe Airport - Tahoe-Donner Subdivision

Commencing at Truckee-Tahoe Airport, or Amtrak-Creyhound Depot, over and along the most convenient and appropriate streets, roads and highways to Sierra Meadows, Prosser Lakeview Estates, Donner Lake, and Tahoe-Donner Subdivision, returning over the same route. ✓

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