

2000

Greyhound Lines, Inc. , Continental Bus Lines, Inc. , American Bus Lines, Inc. , and Denver-Salt Lake-Pacific Stages, Inc. v. Lewis Bros. Stages, Inc. : Brief of Respondent

Utah Supreme Court

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Recommended Citation

Brief of Respondent, *Greyhound Lines, Inc. v. Lewis Bros. Stages, Inc.*, No. 14187.00 (Utah Supreme Court, 2000).
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UTAH SUPREME COURT

BRIEF

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IE COURT

OF THE STATE OF UTAH

GREYHOUND LINES, INC.,)
CONTINENTAL BUS SYSTEM, INC.,)
AMERICAN BUS LINES, INC., and)
DENVER-SALT LAKE-PACIFIC)
STAGES, INC.,)

Plaintiffs-Appellants,)

and)

LEWIS BROS. STAGES, INC.,)
a corporation,)

Plaintiff-Appellant,)

vs.)

PUBLIC SERVICE COMMISSION)
OF UTAH, FRANK S. WARNER,)
EUGENE S. LAMBERT and OLOF E.)
ZUNDEL, Commissioners of the)
Public Service Commission of)
Utah; and UTAH VALLEY TRAN-)
SIT, COOK TRANSPORTATION)
COMPANY, and LAKE SHORE)
MOTOR COACH LINES, INC.,)

Defendants-Respondents.)

Case No. 14187

Case No. 14210
(Consolidated)

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J. Reuben Clark Law School

BRIEF OF DEFENDANTS-RESPONDENTS UTAH VALLEY
TRANSIT AND COOK TRANSPORTATION COMPANY.

Review of an Order of the
Public Service Commission of Utah

FILED

OCT 3 1975

Clerk, Supreme Court, Utah

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October 31, 1975

FILED
NOV 3 - 1975

Clerk, Supreme Court, Utah

Honorable F. Henri Henriod
Chief Justice
Utah Supreme Court
State Capitol
Salt Lake City, Utah 84114

Re: Cases No. 14187 and 14210
Grayhound et al v. Public Service
Commission, Utah Valley Transit,
Cook Transportation Company, Lake-
shore Motor Coach Lines, Inc., et al

Dear Chief Justice Henriod:

On behalf of Lakeshore Motor Coach Lines, Inc., we wish to respectfully advise the Utah Supreme Court that Lakeshore Motor Coach Lines, Inc. will not file a brief in the above captioned matters. Lakeshore Motor Coach Lines, Inc. endorses in total the brief filed by Utah Valley Transit and Cook Transportation Company in support of the action of the Public Service Commission of Utah.

Lakeshore Motor Coach Lines, Inc. urges the Utah Supreme Court that the action of the Public Service Commission of Utah be affirmed.

Respectfully,

R. M. CHILD

RMC:

CC: 9 copies, Utah Supreme Court Clerk
Irene Warr
Stuart L. Poelman, Esq.
Vernon B. Romney, Attorney General
John P. Kennedy, Esq.

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IN THE SUPREME COURT
OF THE STATE OF UTAH

GREYHOUND LINES, INC.,)	
CONTINENTAL BUS SYSTEM, INC.,)	
AMERICAN BUS LINES, INC., and)	
DENVER-SALT LAKE-PACIFIC)	
STAGES, INC.,)	
)	Case No. 14187
Plaintiffs-Appellants,)	
)	
and)	
)	
LEWIS BROS. STAGES, INC.,)	
a corporation,)	Case No. 14210
)	(Consolidated)
Plaintiff-Appellant,)	
)	
vs.)	
)	
PUBLIC SERVICE COMMISSION)	
OF UTAH, FRANK S. WARNER,)	
EUGENE S. LAMBERT and OLOF E.)	
ZUNDEL, Commissioners of the)	
Public Service Commission of)	
Utah; and UTAH VALLEY TRAN-)	
SIT, COOK TRANSPORTATION)	
COMPANY, and LAKE SHORE)	
MOTOR COACH LINES, INC.,)	
)	
Defendants-Respondents.)	

BRIEF OF DEFENDANTS-RESPONDENTS UTAH VALLEY
TRANSIT AND COOK TRANSPORTATION COMPANY.

I. NATURE OF THE CASE

This case arises by petition for writ of certiorari under Utah Revised Statutes §54-7-16, wherein Plaintiffs-Appellants seek reversal of an order of the Public Service Commission

approving the acquisition of the stock of Lake Shore Motor Coach Lines by Utah Valley Transit and Cook Transportation Company.

II. DISPOSITION BY THE PUBLIC SERVICE COMMISSION

Following the filing of an application to purchase Lake Shore stock by Utah Valley Transit and Cook Transportation Company, the Public Service Commission convened a hearing in Salt Lake City on October 1 and 2, 1974. The testimony and other evidence of all interested parties were received at that time. Following the submission of briefs by the parties, a decision was handed down by the Commission on May 6, 1975. The Commission approved the application of Cook and Utah Valley, finding that the acquisition of Lake Shore stock was "clearly in the public interest." Plaintiffs-Appellants both requested reconsideration and filed additional briefs with the Commission. Reconsideration was denied by the Commission, and Plaintiffs-Appellants petitioned for certiorari.

III. NATURE OF RELIEF SOUGHT ON APPEAL

Defendants-Respondents seek dismissal of the petition for writ of certiorari and urge this Court to uphold the Commission's findings and order. The Plaintiffs-Appellants ask that this Court substitute its own findings for those of the Commission and seek to have the Commission's order vacated.

IV. STATEMENT OF FACTS^{*/}

The statements of fact of Plaintiffs-Appellants are basically accurate but contain numerous irrelevancies. The material facts in this matter are set out below.

Utah Valley Transit and Cook Transportation applied to the Public Service Commission for permission to each acquire 50 percent of the stock of Lake Shore Motor Coach Lines (Tr. 106).

The owner of Lake Shore Motor Coach Lines is currently the Estate of John Yeaman, which estate is being administered by the Bank of Utah (Tr. 275, Ex. 13). The Bank of Utah, as Administrator, entered into an agreement with Defendants-Respondents Cook and Valley transferring the ownership of the Lake Shore stock. That agreement was approved by the probate court. No other purchasers were willing to buy the stock from the estate (Finding of Fact No. 11, order of May 6, 1974).

Utah Transit Authority, a public entity, pursuant to a written agreement, has instituted operations whereby it provides regular route passenger service in the area previously serviced by Lake Shore except on Sundays. Lake Shore proposed to the Commission that it continue to provide regular route

^{*/}

Defendants-Respondents rely heavily upon the Findings of Fact of the Commission, which are set out in full in Appendix A, attached hereto. Pursuant to Utah Revised Code §54-7-16, "the finds and conclusions of the Commission on questions of fact shall be final and shall not be subject to review."

service on Sundays involving one round trip between Salt Lake City and Ogden. Lake Shore is prepared to perform such other service as is necessary in the absence of complete service by the U.T.A. Lake Shore is continuing to provide charter service as it has in the past. Findings No. 4.

Cook Transportation and Utah Valley Transit have operated successfully in the State of Utah for 32 years and 22 years, respectively. Mr. J. Vernon Cook (the owner of Cook Transportation) owned and operated Lake Shore by himself for several years in the late 1960's. Finding No. 6. With provisional authority of the Commission, Defendants-Respondents have successfully and lawfully operated Lake Shore since August 1, 1974. Finding No. 10.

Cook and Valley have the financial capability, equipment, management experience, personnel, and garage facilities to operate Lake Shore. Findings Nos. 7, 8, and 9.

The operation of Lake Shore in the manner proposed by the Defendants-Respondents Cook and Valley will not result in the creation of any new transportation authorities nor diversion of traffic from Plaintiffs-Appellants, except to the extent that Cook and Valley may be more aggressive and efficient. Any increase in the competency of Lake Shore management is clearly in the public interest. Finding No. 12.

V. ARGUMENT

A. The Position of Defendants-Respondents Cook Transportation and Valley Transit.

In summary, it is the position of Cook and Valley that their application to acquire Lake Shore stock is in the public interest; that the Supreme Court has repeatedly ruled that it will not substitute its findings for those of the Commission; that the record amply supports the Commission's findings; that the Commission found against Plaintiffs-Appellants on the facts; that the authorities relied upon by the Plaintiffs-Appellants are not applicable here; that the position of the Plaintiffs-Appellants would, if accepted, lead to a result which is contrary to the interest of the public.

B. Plaintiffs-Appellants Have Failed To Consider The Statutory Test For Approval Of Defendants-Respondents' Application To Acquire Lake Shore, Which Test Is Whether Such Action Is In The Public Interest.

Section 54-4-29 of the Utah Revised Statutes provides:

Hereafter no public utility shall purchase or acquire any of the voting securities or the secured obligations of any other public utility engaged in the same general line of business without the consent and approval of the public utilities commission, which shall be granted only after investigation and hearing and finding that such purchase and acquisition of such securities, or obligations, will be in the public interest.

Thus, in this case as governed by the foregoing section, the only test which must be satisfied to obtain the Commission's

consent and approval is that the purchase of stock must be in the public interest.

The briefs of Plaintiffs-Appellants curiously overlook or ignore the Utah statutory test of the public interest. Indeed, they do not challenge the express finding of the ultimate fact that the proposed transaction is indeed in the public interest.

Rather than deal with the clear findings of the Commission under the Utah law, Plaintiffs-Appellants have looked far afield for authority and theories to overturn the Commission's order.

The simple fact is the Commission found the proposed acquisition of Lake Shore by Cook and Valley to be in accord with the public interest. Under the statute, this is all that is required.

C. This Court Has Held That It Will Not Substitute Its Findings For Those Of The Commission.

Under U.R.C. §54-7-16, the scope of review in cases such as this is narrowly limited in the following language:

. . .No new or additional evidence may be introduced in the Supreme Court, but the cause shall be heard on the record of the commission as certified by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the Constitution of the United States or of the state of Utah. The findings and conclusions of the commission on questions of fact shall

be final and shall not be subject to review. Such questions of fact shall include ultimate facts and the findings and conclusions of the commission on reasonableness and discrimination. . . .

In Lewis v. Wycoff Co., 18 Utah 2d 255, 420 P.2d 264 (1966) (Crockett, J.), this Court considered a ruling of the Commission granting an increase in authority. In upholding the Commission's determination, the Court stated (420 P.2d at 266):

Due to the responsibility imposed upon the Commission, and its presumed knowledge and expertise in this field, its findings and order are supported by certain well recognized rules of review: They are endowed with a presumption of validity and correctness; and the burden is upon the plaintiffs to show that they are in error. We survey the evidence in the light most favorable to sustaining them; and we will not reverse unless there is no reasonable basis therein to support them so that it appears that the Commission's action was capricious and arbitrary.

Similar language and results may be found in Jeremy Fuel & Grain Co. v. Public Utilities Comm'n, 63 Utah 392, 226 Pac. 456 (1924); Fuller-Toponce Truck Co. v. Public Service Comm'n, 99 Utah 28, 96 P.2d 722 (1939); Salt Lake-Kanab Freight Lines, Inc. v. Robinson, 9 Utah 2d 99, 339 P.2d 99 (1959); and Salt Lake Transf. Co. v. Public Service Comm'n, 11 Utah 2d 121, 355 P.2d 706 (1960).

In essence, Plaintiffs-Appellants seek to have the findings of the Commission overturned. In seeking such a reversal, however, Plaintiffs-Appellants have cited no evidence or Utah precedent which challenges the findings of the Commission.

Instead, Appellants rely upon Interstate Commerce Commission rulings which are not in point and which are not applicable in Utah and which do not go to the heart of the issue here, namely, the public interest.

Plaintiffs-Appellants have not met their burden of showing that the Commission acted wrongfully by approving the application here.

D. Plaintiffs-Appellants Do Not Challenge The
Ample Evidence Which Supports The Finding
Of The Commission.

Plaintiffs-Appellants do not directly challenge any of the findings of Commission. The record clearly supports the Commission's ruling that the proposed acquisition is consistent with the public interest. Upon competent evidence, the Commission considered and determined the elements underlying the concept of public interest. The Commission found that Cook and Valley were financially sound, that they had the management expertise required, and that they had the necessary equipment and personnel. The Commission also found that there were no other purchasers available to continue the Lake Shore business.

The Commission had before it the arguments repeated in the briefs submitted to this Court by the Plaintiffs-Appellants. After weighing all of these factors, the Commission found that the public interest would be served by granting the application.

E. The Arguments Of Greyhound, et al., Are Without Merit.

Greyhound argues in its brief (page 7) that the Commission's action permits three carriers to conduct operations where only one has been issued authority. This argument is without merit for the following reasons:

(1) Greyhound failed to present any evidence which in any way supports its contention. The most which was shown was that from time to time carriers in Utah lease equipment to other carriers in the state to help out during peak business periods. This is a practice which is in conformity with law and has never been challenged by the Commission. No certificate of public convenience and necessity is required under such circumstances by the Utah Code. Concerning the matter of leasing, the testimony was as follows (Tr. 65-66):

Q [by Mr. Pugsley]: Mr. Hardman, has it been a custom in the bus operations in Utah to lease equipment back and forth between bus companies for charter service?

A: Oh, constantly, throughout the year for all of these years, but not of a paper nature.

Q: These have been bona fide leases of equipment for the other carrier to perform its charter operation; is that true?

A: Yes.

Q: Have you leased your equipment to carriers such as Lewis Brothers and so on?

A: Yes, we have.

Q: Have they leased equipment to you?

A: Yes, they have.

Q: Would you, if this authority is granted, make available for lease if needed to Lake Shore Motor Coach Lines units that you have available?

A: Yes, I would.

Q: Would Lake Shore also lease from other motor carriers besides you and Cook?

A: Yes, they would.

Q: I represent Uintah Transport who has buses. Would you be interested in leasing their equipment if needed for Lake Shore?

A: We have in the past.

(2) If Greyhound's position were accepted, carriers could never acquire the stock of another carrier. This is not the law in Utah. In fact, to the contrary, carriers may acquire the stock of other carriers in Utah under U.R.C. 54-7-29, by showing that such acquisition is in the public interest. If the legislature intended to follow Greyhound's theory, it would have prohibited such acquisitions altogether. This, of course, was never done.

(3) The Commission expressly found (No. 12) that the agreement between UTA and Lake Shore did not create any new authority. This finding directly refutes Greyhound's argument. The facts presented at the hearing simply did not support Greyhound's contention that a new authority was created.

(4) Greyhound presented no evidence that would in any way show that the Applicants would unlawfully operate Lake

Shore's authority. Adequate remedies exist to prevent such imagined problems should they ever occur. Certainly, Greyhound's unsubstantiated fears cannot serve as a ground to set aside the Commission's rejection of this argument.

(5) The Interstate Commerce Commission's rulings are not controlling here. The rules, regulations, and decisions of the I.C.C. expressly exempt the carriers in this case. Even if those regulations were applicable, the facts of this case would not constitute a violation of the quoted section. Section 1132.5(c) (cited by Greyhound at page 11 of its brief) deals with transfers of a part of an operating right. This present case, of course, deals with the acquisition of stock and the continuation of operating authority.

Greyhound also argues that the Commission acted wrongfully because its order permits a division of Lake Shore's authority. This contention is also without merit for the following reasons:

(a) Greyhound failed to show by any evidence that Lake Shore's authority was divided. In actuality, the Commission has no right to control the actions of the UTA. In this case, it is the UTA which has commenced operations in the areas where Lake Shore provided regular route service in the past. No Commission approval of this step is sought in this matter. Instead, this case involves only Lake Shore's operations. Defendants-Respondents are buying the stock which controls 100 percent of Lake Shore's operations. The Commission's findings

of fact directly conflict with the assertions of Greyhound on this point. Thus, the Commission did not agree with Greyhound that Lake Shore's authority had been divided.

(b) The Liederbach case (41 M.C.C. 595(1942)), is not applicable here for three reasons. First, the regular route authority necessary to continue charter operations was expressly continued under the order of the Commission (Finding No. 4). Second, the new practice and policy of fostering mass transit systems, makes the rationale of the Liederbach case out of date and inapplicable. Of course, the Liederbach case has been used in interstate commerce cases, and it has never been shown to be relevant to intrastate matters in Utah. Third, there has been no severance of the charter rights from the regular operating rights as was the case in the Estacada-Molalla case cited by Greyhound (at p. 16).

(c) Greyhound failed to present any evidence of non-bona fide operations. In fact, attempts to do so at the hearing failed. Section 1132.5(c) of the I.C.C.'s regulations is thus not even applicable as persuasive authority (let alone binding authority). It was not shown that the Applicants Cook and Valley did not intend to carry on bona fide operations. To the contrary, the Commission found that Cook and Valley have successfully and lawfully operated Lake Shore since August 1, 1974 (Finding No. 10). This Court should not assume a finding in contradiction to that of the Commission, particularly when there is no evidence to support such an assumption.

F. The Arguments Of Lewis Brothers Are Also Without Merit.

The arguments of Lewis Brothers are virtually identical to those of Greyhound. For the same reasons as already discussed, they should be rejected. In addition, the following reasons also demonstrate their lack of merit:

(1) Lewis Brothers (and also Greyhound) cite non-Utah precedents. The Utah Supreme Court has rejected such citations as precedent in cases like this. See Los Angeles & S.L.R. Co. v. Public Utilities Comm'n, 80 Utah 455, 15 P.2d 358 (1932).

(2) Lewis Brothers assumes without evidence that Lake Shore will cease regular route operations and thereby split the charter operations from regular route operations. No evidence supports this unwarranted assumption. Again, the provisional operations of Lake Shore by Cook and Valley demonstrated that no separation of the Lake Shore authority has taken place.

(3) It is true that Section 5(2) of 49 U.S.C. is similar to the Utah Rev. Code §54-4-29. However, the cases cited by Lewis Brothers are not in point with the present case for several reasons. First, the Commission here made an express finding regarding the public interest. The Welch and Tose cases do not contain such a finding. Second, there is no contention here that Lake Shore possesses any dormant rights.

Third, the applicants in the present case did show, and the Commission found, that no new service would be created by the acquisition of Lake Shore by Cook and Valley.

G. The Result Urged By Appellants Would Yield
A Result Contrary To The Public Interest.

The prime concern of the Commission under the statute is whether the proposed application is in the public interest. The Commission found that it was. The position of the Plaintiffs-Appellants, if accepted, would lead to a result which would be contrary to the public interest.

As the Commission found (Finding No. 11), no other purchasers were available to acquire and operate Lake Shore. Thus, if the application of Cook and Valley were denied, the estate of John Yeaman would either be forced to operate the business or to cease operations altogether. It is obvious that a bank, acting as an administrator of an estate, is not qualified to operate a bus company. The Applicants Cook and Valley have the experience and skill required and have, in fact, successfully and lawfully operated the business, providing the needed service to the public.

It is submitted that Plaintiffs-Appellants are not concerned with the public interest in this case. Rather, their principal concern is their own interest. This concern was evident in Greyhound's brief (at page 12), where it was alleged that the Commission's action "increases the competitive effect on existing carriers."

The Commission's order also comments on this allegation, noting that no new authority is created except to the extent that the new owners are more efficient managers. The Commission then observed, "Any increase in the competency of the Lake Shore management is clearly in the public interest."

Thus, vacating the Commission's order would result in the eventual death of Lake Shore Lines. Such a loss would certainly be injurious to the Yeaman Estate, but more importantly, the public would be disadvantaged.

H. The Commission's Decision Should Be Affirmed To Protect The Public And The Estate Of John Yeaman.

The creation of new metropolitan transit authorities with liberal federal funding and access to other financial subsidies through taxation represents a condition heretofore not encountered in motor carrier law in Utah. No one denies that the UTA will have capabilities far exceeding that of Lake Shore Lines to provide regular route service to the public. To the extent possible, everything should be done to protect the public interest under these circumstances and to enable the UTA to provide the widest and best service possible.

The Public Service Commission does not approve the expansion of the UTA into areas previously serviced by carriers such as Lake Shore. The UTA is by law free to commence regular route authority in those areas.

But it must not be overlooked that the UTA does not have broad authority to conduct charter operations. Thus, wherever UTA takes over a major percentage of existing regular route authority (as in this case), previously existing charter authority is jeopardized. If the outdated view of the Federal Interstate Commerce Commission (asserted by Appellants here) were to be forced upon the Utah public permitting charter rights only as they are incidental to regular route rights regardless of the actions of the UTA, then the public will be jeopardized by a curtailment in the availability of charter service, and existing carriers would be jeopardized because they stand to lose the value of their charter rights. If this were to happen, carriers would be reluctant to welcome the UTA because the loss of regular route authority would automatically lead to the loss of charter authority. Plaintiffs-Appellants can cite no authority which would prefer such an obviously inequitable and unjust result.

As argued by Cook and Valley to the Commission, other jurisdictions have recognized the requirements of the new situation involving mass transit. Maryland, for example, has approved a single route service, such as was done here, to avoid injury to the public interest.

CONCLUSION

The Commission found that the proposed acquisition of Lake Shore stock by Cook and Valley would be in the public

interest. Plaintiffs-Appellants have not demonstrated that this would not be the case. Their concern is not with the public interest, but their own interest. Reversal of the Commission's decision would cause injury to the public interest by curtailing the charter service available to the public.

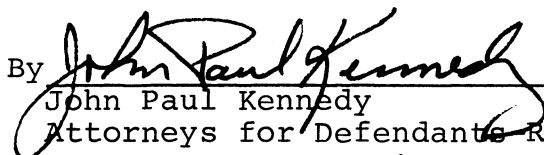
The Plaintiffs-Appellants' arguments are based upon the assumptions that Lake Shore's authority will be split and that charter authority will be separated from regular route authority. The Commission found that neither assumption was supported by the evidence. Thus, all of the cases and arguments of Appellants are without foundation in fact. They cannot serve as a basis for altering the Commission's decision.

Because the Commission's decision is based upon substantial evidence, it should be affirmed.

DATED: October 30, 1975

Respectfully submitted,

BOYDEN, KENNEDY, ROMNEY & HOWARD

By 
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CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Brief were served upon all parties of record this 30th day of October, 1975.



APPENDIX A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Investigation)
of the Acquisition of stock of)
LAKE SHORE MOTOR COACH)
LINES, INC. by Utah Valley)
Transit and Cook Transportation.)

INVESTIGATION DOCKET NO. 172

REPORT AND ORDER

Appearances:

John Paul Kennedy	For	Applicant
Cal Malouf	"	Applicant
Quentin L. Cook	"	Applicant
Harry D. Pugsley	"	Uintah Transport
Denis R. Morrill	"	Salt Lake Transportation Company
William D. Oswald	"	Utah Transit Authority
Ramon M. Child	"	Stockholders and Officers of Lake Shore Motor Coach Lines, Inc.
Stuart L. Poelman	"	Greyhound Lines, Inc., Greyhound West Division, Continental Bus System, Inc. and Denver-Salt Lake Pacific Stages, Inc.
Irene Warr	"	Lewis Bros. Stages, Inc.
Keith E. Sohm	"	Public Service Commission Staff

By the Commission:

This is an application by Utah Valley Transit and Cook Transportation to purchase the stock of Lake Shore Motor Coach Lines, Inc., pursuant to the provisions of Section 54-4-29, Utah Code Annotated, 1953.

A hearing was held in Salt Lake City, Utah, on October 1 and 2, 1974, before the Commission, pursuant to notice duly given by mail and by publication. The Commission, having considered the facts and circumstances respecting this application, and being fully advised, makes this Report containing its Findings and Conclusions, and its Order based thereon.

FINDINGS OF FACT

1. Utah Valley Transit and Cook Transportation each seek to acquire fifty per cent of the stock of Lake Shore Lines, all three companies being Utah corporations with authority issued by this Commission to operate as common motor carriers of passengers.

2. As pertinent to this proceeding, Utah Valley Transit holds authority to originate charter operations at Provo and at points between Santaquin and Springville, Utah. It has not interstate charter authority. Cook Transportation has intrastate authority to initiate charter trips at points in Cache County, and it has interstate authority to originate charter trips at the specific origin points of Logan, Brigham City and Ogden, which authority is restricted to specific destinations in western United States. Lake Shore Motor Coach Lines hold intrastate authority for charter round trips originating at points from Ogden to Salt Lake City, inclusive.

3. The protestants, Greyhound Lines and American Buslines, hold various intrastate and interstate authority to originate charter trips from Salt Lake City, Ogden and intermediate points. Continental Bus Lines, Denver-Salt Lake-Pacific Stages, Salt Lake Transportation Company and Lewis Bros. Stages each hold authority to originate charters at Salt Lake City.

4. Utah Transit Authority, a public entity, pursuant to an agreement, has instituted operations whereby it provides regular route passenger service in the area previously served by Lake Shore except on Sundays. Lake Shore has proposed to provide regular route service on Sundays involving one round trip between Salt Lake City and Ogden. Lake Shore indicated in said agreement its readiness to perform such other service as is required in the absence of complete service by the UTA. Lake Shore is continuing and proposes to provide charter service as in the past.

5. The applicants' service proposal is made pursuant to an agreement between Lake Shore and Utah Transit Authority wherein Lake Shore agreed to operate its remaining regular route authority and all of its charter service, which agreement is subject to the approval of this application. Lake Shore and UTA agreed that Lake Shore would retain whatever regular route authority would be necessary to support its charter rights

INVESTIGATION DOCKET NO. 172

-3-

6. Cook Transportation and Utah Valley Transit have operated successfully in the State of Utah for 32 years and 22 years, respectively. Applicant Cook owned and operated Lake Shore Lines by himself for several years in the late 1960's.

7. The applicants' financial statements, testimony and past history reflect financial capability to operate Lake Shore.

8. The proposed equipment listed by applicants for Lake Shore reveals that Lake Shore will be adequately equipped for the stated purposes.

9. Under this application Lake Shore will be managed by experienced personnel and will have adequate garage and office facilities located in Salt Lake City.

10. Lake Shore has been successfully and lawfully operated by applicants since August 1, 1974, under temporary authority of this Commission.

11. There were not other purchasers who were willing to acquire Lake Shore stock from the estate of John H. Yeaman. If this application were not approved the executor of said estate, Bank of Utah, would be required to continue to operate the Lake Shore service.

12. "Splitting" of the Lake Shore authority in the manner proposed in the instant application will not result in the creation of any new transportation authorities nor diversion of traffic from any of protestants except to the extent the new owners and managers of Lake Shore may be more aggressive and efficient. Any increase in the competency of Lake Shore management is clearly in the public interest.

CONCLUSIONS

A. The applicants were demonstrated to be fit for the stated purposes of this application.

B. Approval of this application is in the public interest, and, therefore, this application should be approved.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, That the application of Cook Transportation and Utah Valley Transit to acquire the stock of Lake Shore Motor Coach Lines, Inc., pursuant to the agreement between applicants and the estate of John H. Yeaman, be, and is hereby approved.

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IT IS FURTHER ORDERED, That Lake Shore shall continue to maintain on file with the Commission insurance required by law; Lake Shore shall maintain accounts and records in conformity with the system of accounts prescribed by the Commission for motor carriers; that Lake Shore shall file schedules and tariffs naming rates, rules and regulations, and shall comply in all respects with such filed tariffs as shall be approved by the Commission.

IT IS FURTHER ORDERED, That Lake Shore shall at all times operate in accord with the statutes of the State of Utah and the rules and regulations of the Public Service Commission as they now exist or as they may hereafter be prescribed, governing the operation of common motor carriers over the public highways of the State of Utah, and it shall render reasonable; adequate and continuous service to the public, and any failure to do so shall be sufficient grounds for change, suspension or cancellation of the authority herein granted.

Dated at Salt Lake City, Utah, this 6th day of May, 1975.

/s/ Frank S. Warner, Chairman

(SEAL)

/s/ Eugene S. Lambert, Commissioner

/s/ Olof E. Zundel, Commissioner

Attest:

/s/ Ronald E. Casper, Secretary

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