

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

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local operators and to conserve to the public the local transportation service which has become necessary for its accommodation.

With this policy controlling, the protest of the Great Lakes Stages, Inc., is the only protest to the intrastate service which requires any discussion. The Frank Martz Coach Company and the Great Lakes Stages, Inc., began operating through Pennsylvania an interstate motor vehicle transportation service at approximately the same date, operating over practically the same highways in Pennsylvania and have been competitors in the interstate service. The Commission has no power or authority to interfere with or to prevent such competition. The public has the right and privilege of using the buses of both companies and no convincing reason has been advanced to justify the Commission in denying to the Frank Martz Coach Company the same rights to perform intrastate service which have been granted by the Commission to the Great Lakes Stages, Inc.

In conformity with the foregoing conclusions and giving due consideration to the evidence, the Commission finds and determines that the approval of the right of the Frank Martz Coach Company, a corporation of the State of Delaware, to do business in Pennsylvania, is necessary for the service, accommodation and convenience of the public, said business confined to the specific rights and privileges set forth in annexed order. The Commission further finds and determines that the approval of the right of the Frank Martz Coach Company to operate and furnish intrastate service on the route between northern terminus near Eldred and Pennsylvania-New Jersey State Line east of Portland subject to conditions contained in the attached order, is necessary for the service, accommodation and convenience of the public.

The Commission further finds that the granting of permission to the Frank Martz Motor Coach Company to operate in the aforementioned and described interstate service is the proper exercise of the police power vested in it.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD
COMPANY et al.

v.

GREAT LAKES STAGES, INC.

COMPLAINT DOCKET No. 8090

Motor carriers—Interstate commerce—Interstate route between intrastate points—Subterfuge.

A complaint that respondent motor carrier was operating between intrastate points without Commission approval was dismissed where the route

was partly in New Jersey and complainants had failed to establish that the route had been adopted as a subterfuge to evade regulation and was not the result of a bona fide business.

G. W. Morgan, H. B. Thomas, H. Z. Maxwell, G. H. Huft, C. T. Wolfe and F. B. Smillie for Complainants.

Sterling G. McNees and McConnell, Blackmore & Corey for Respondent.

REPORT AND ORDER BY THE COMMISSION, *November 18, 1930:*

This complaint alleges that the respondent has instituted and now maintains a scheduled motor vehicle transportation service for the transportation of persons for hire between the City of Wilkes-Barre, City of Scranton and the City of Philadelphia via Mount Pocono, Stroudsburg, Delaware Water Gap and Portland, Pennsylvania, Belvidere and Phillipsburg, New Jersey, and Easton and Doylestown, Pennsylvania, without the requisite approval of the Commission.

The respondent admits the allegation of the complaint but answers that the service complained of is an interstate operation for which it is not necessary to obtain the Commission's approval.

The question raised in this proceeding is similar to the one considered by the Commission in *Lehigh Valley Transit Company v. Quaker City Motor Coach Lines, Inc.*, Complaint Docket No. 8489, and *The Delaware, Lackawanna and Western Railroad Company et al. v. Frank Martz, trading as Frank Martz Bus Company, et al.*, Complaint Docket No. 8046. The record does not disclose sufficient facts upon which the Commission would be justified in finding that the respondent is and has been operating an intrastate transportation service, and from the operation of which it could be lawfully restrained.

The jurisdiction of the Commission over the service complained of is limited to the powers set forth in revised rule 14 of General Order No. 18. By order of even date filed to Application Docket No. 19410, (Folder No. 1), the Commission has granted the Great Lakes Stages, Inc., permission to operate an exclusive interstate service over the route which the complainant alleges it was unlawfully operating; **THEREFORE,**

NOW, to-wit, November 18, 1930, IT IS ORDERED: That the complaint be and is hereby dismissed.

APPLICATION OF GREAT LAKES STAGES, INC.

APPLICATION DOCKET No. 19410 (FOLDER No. 1)

Motor carriers—Interstate service—Interstate certificate—Modification.

The Commission modified an interstate certificate of motor carrier to include operation between intrastate points over an interstate route.

Sterling G. McNees and Clark T. McConnell for Applicant.

G. W. Morgan for The Delaware, Lackawanna and Western Railroad Company.

Paul Bedford for The Delaware and Hudson Company.

O'Brien and Kelly for Lackawanna & Wyoming Valley Railroad Company.

Francis Shunk Brown, Sr., and Abram Salsburg for Frank Martz Coach Company and Wilkes-Barre and Pocono Transit Company.

F. B. Smillie for Lehigh Valley Railroad Company.

John T. Brady for Reading Company.

G. H. Huft for Philadelphia Rural Transit Company and Doylestown and Easton Motor Coach Company.

REPORT BY THE COMMISSION, *November 18, 1930:*

The Great Lakes Stages, Inc., is a corporation of the State of Ohio. In 1928, the company filed petition with the Commission for approval of the right to transport persons as a common carrier in and through the State of Pennsylvania, on and over route beginning at a point on State Highway Route No. 446, at its intersection New York-Pennsylvania State Line near Bullis Mills, and extending to the City of Scranton and thence to the City of Philadelphia over State Highway Route No. 611. On July 9, 1929, the Commission granted the company the right to operate exclusive interstate service over the route as applied for and also certain intrastate service between points and places on the route. No right or privilege was granted to transport persons between Scranton and Philadelphia.

About the time the certificate was issued, a complaint was filed with the Commission by The Delaware, Lackawanna and Western Railroad Company, Lehigh Valley Railroad Company, Central Railroad Com-

pany of New Jersey, Reading Company, The Pennsylvania Railroad Company, Philadelphia Rural Transit Company, Doylestown & Easton Motor Coach Company and the Philadelphia Rapid Transit Company, alleging that the Great Lakes Stages, Inc., was maintaining a scheduled motor transportation service for the transportation of persons for hire between the cities of Wilkes-Barre, Scranton and Philadelphia, without the requisite approval of the Commission.

By report and order of even date, the Commission dismissed the said complaint (Complaint Docket No. 8090), holding that the service over the route from Scranton and Wilkes-Barre to Philadelphia over highways partly in Pennsylvania and partly in New Jersey was not shown to be an intrastate operation from which it could be lawfully restrained. The pending application of Great Lakes Stages, Inc., for modification of the rights granted July 9, 1929, will be considered and treated as an application under revised rule No. 14 of General Order No. 18 of the Commission. Viewed from this standpoint and the evidence establishing that Great Lakes Stages, Inc., has proper qualifications to meet and comply with all the requirements which the Commission can lawfully impose upon interstate motor vehicle transportation companies, an order will issue modifying the route as prayed for and granting the company permission to operate over the route in interstate service, subject to regulations of the Commission governing interstate motor vehicle transportation companies, the permission to cease and terminate if and when jurisdiction over interstate motor vehicle transportation companies is assumed by the Federal Government.

APPLICATIONS OF WHITE TRANSIT COMPANY

APPLICATION DOCKET No. 21053 (FOLDER NOS. 2 AND 3)

Motor carriers—Approval of route extensions—Additional group and party service—Necessity.

The Commission granted right to applicant motor carrier to operate additional routes and group and party service from new point of origin.

Abram Salsburg for Applicant.

O'Brien and Kelly and *W. J. Fitzgerald* for Lackawanna and Wyoming Valley Railroad Company.