Decision No. 12569

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of YOSEMITE NATIONAL PARK CO., for a certificate of public convenience and necessity to operate a passenger and hand baggage service between Fresno, California, and Yosemite National Park boundary near Mariposa Grove of Big Trees, via Wishon and between Wishon and Yosemite National Park Boundary.

Application No. 9107

Richard T. Eddy for Applicant.
G. L. Aynsworth for Fresno County Chamber of Commerce.
Gallaher, Simpson and Hayes, by W. E. Simpson for Madera-Yosemite-Big Trees Auto Stage Company and Yosemite Stage and Turnpike Company, Protestants.
Ernest Walling for North Fork Stage Company and Fresno and De Pine Stage Company, Protestants.
Fee and Ring, by W.C.Ring, for Madera-Sugar Pine Stage Company and T. J. Cronin, Protestants.
Robert Hutcherson and E. A. Devereaux for Minarets and Western Railroad, Protestants.

BY THE COMMISSION:

O P I N I O N

Yosemite National Park Company has made application to the Railroad Commission for a certificate of public convenience and necessity to operate passenger and hand baggage service between Fresno and Yosemite National Park boundary, via Wishon, and between Wishon and Yosemite National Park boundary.

A public hearing was conducted by Examiner Williams at Fresno.

Applicant proposes to operate between Fresno and the boundary of the Yosemite National Park, the last terminus being at a point four miles from the junction of the Wawona road and

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the road to the Mariposa Grove. This service is to be through, between termini, without any intermediate service except that vehicles devoted to through service may receive passengers at Wishon for transportation to the boundary. Applicant also asks a certificate to transport passengers from Wishon to the boundary by separate schedule.

The schedule of fares proposed by applicant, as amended at the hearing, provides for a rate of $9.00 between Fresno and the boundary, with $13.75 for a round trip, and a fare of $4.00 from Wishon to the boundary, with $7.25 for a round trip. The amended fares reduce the amounts originally fixed in Exhibit "A" attached to applicant's application.

Applicant also amended its time schedule to advance its departure from Fresno from 8:30 A.M. to 7 A.M., reaching the boundary at 1:00 P.M., the return trip leaving the boundary at 12:30 P.M., and reaching Fresno at 6:00 P.M. The schedule calls for three trips weekly, - on Monday, Wednesday and Friday between May 1st and October 1st only. The service between Wishon and the boundary is to be upon a two hour schedule, connecting with trains of the Minarets and Western Railroad. Applicant now conducts extensive operations within the boundaries of Yosemite National Park, and has abundant equipment, of a suitable character, to devote to the proposed service.

Applicant proposes three routes between Fresno and Wishon, either one to be used, according to its advantages, during the season. Route No.1 - By way of Blackstone Avenue, Lane's Bridge, Bates Station and Coarse Gold. Route No.2 - By way of Friant, Bellview and O'Neals. Route No.3 - By way of Clovis, Auberry and South Fork. Routes No. 1 and No. 3 are approximately sixty (60) miles, while No. 2 is fifty (50) miles. As these routes

traverse mountainous country, and are available for use with some irregularity, and as no objection was made to the routings proposed by applicant, it appears that if necessity for this service exists applicant should use for the comfort of the passengers transported, the best available means of travel. From Wishon to the boundary applicant proposes to use the Sugar Pine to "Four Mile" and thence over the Big Trees road to the park boundary.

Applicant amended its application, without opposition, at the hearing asking that its certificate include the right to establish through routes and joint fares in connection with the Fresno division, and of other divisions of applicant's transportation system, and to sell through tickets over all of its divisions in connection and conjunction with connecting lines, rail and stage. Purposes disclosed in support of this amendment were through joint rates with the Minarets and Western Railroad and the Madera-Yosemite-Big Trees Auto Stage Company (commonly known as the "Horse Shoe" route).

Minarets and Western Railroad operates between Pinedale and Wishon over its own tracks, and expects to perfect arrangements by which it will use rails of the Fresno Traction Company into and form a connection with the Southern Pacific and Santa Fe stations in Fresno. It was the testimony of Robert Hutcherson, traffic manager of Minarets and Western Railroad, that passenger service was expected to be installed in August, 1923, and that facilities would be established at Wishon for the receipt and storage of sleeping cars in order that transcontinental tourists and others could be brought to proximity of the Mariposa Grove by rail journey.

The purpose to connect with the "Horse Shoe" route presented differences between applicant and protestants "Horse Shoe"

route and Yosemite Stage and Turnpike Company. Except for the questions raised by these protestants all other opposition by other protestants was withdrawn at the hearing.

Applicant, through its Manager F. E. Farrow, testified that the Yosemite Transportation Company intends to establish the proposed service to provide adequate stage transportation between Fresno and Yosemite Park, in order that two gateways to the park may be established. At present the main inlet to the part is by way of El Portal, which is about fifty miles from the Mariposa Tree Grove. El Portal is fifteen (15) miles from the floor of Yosemite Valley, the main playground in the park, and is reached at present only by the Yosemite Valley Railroad which operates daily, in season, between Merced and El Portal. It has accommodations for storage of sleeping cars. No exterior automobile service reaches El Portal. Stage service between Merced and Yosemite Valley is by way of the protestant " Horse Shoe" route, which has operating rights by way of Wawona and Miami Lodge to the park boundary. Its operations within the park boundary are under lease of rights granted by the United States Government within the park to protestant Yosemite Stage and Turnpike Company, and a part of this right is to transport passengers from points outside the park to points inside, and vice versa. Applicant's rights are from point to point within the park. Mr. Farrow based necessity for the establishment of the service proposed largely upon statistics of the increase in traffic into the park, with the belief that the traffic is now so great that additional routings and facilities are necessary. These statistics admitted without objections are as follows:-

	1918	1919	1920	1921	1922
Total visitors	33,497	58,362	68,906	91,513	100,506
Rail passengers	6,224	14,280	21,687	24,768	28,148
Rail passengers via El Portal	3,894	11,043	18,111	20,969	23,552
Rail passengers via Wawona	2,330	3,237	3,525	3,629	4,311
Rail passengers via Tahoe	0	0	51	170	285
Private autoists	26,699	42,900	46,074	64,566	64,737
Private automobiles	7,621	12,109	13,418	18,947	19,583
Yosemite Valley to Big Trees and return			7,260	7,104	8,029

From these statistics it is apparent that the traffic by rail lines increased approximately six times by the El Portal route in a period of five years, while the traffic via Wawona has but doubled itself. The obvious conclusion is that persons seeking the park prefer rail transportation, as far as it may be had, to the all-stage route, except, of course, those who use their private automobiles, and which was almost sixty five per cent of the total visiting the park in 1922. It is also shown that over eight thousand persons were transported from the floor of the valley to the Mariposa Grove of Big Trees, and return, during 1922. It is fair to conclude from these figures that many thousands would be benefited by close rail contact with the Big Trees, and that entrance via the Big Trees will meet requirements of many rail tourists. Mr. Farrow testified that the Minarets and Western Railroad will bring rail transportation fifty miles nearer the Big Trees, and that, with the construction of new roads now provided for, it will soon be possible to enter Yosemite Park at the Big Trees by a journey of approximately fifteen miles from Wishon. This will put either El Portal or Wishon in the same position with a large portion of the travelling public, and will permit ingress

and egress to the park by rail from opposite ends.

Further testimony as to public necessity was given by George S. Waterman, Al. C. Joy and Guy E. Leonard all connected with the Fresno County Chamber of Commerce. These witnesses based the necessity for the establishment of this service on the broad ground of providing a short distance rail route from Fresno to Wishon, with also an all-stage route between Fresno and the Big Trees. They explained that the necessity would not be largely local, although such needs exist but would be a need beginning from without the State, and incident to the enormous tourist travel that visits California during the year. It was also pointed out that the establishment of a new gateway with direct rail and stage connection would be of material advantage to travellers from the southern part of California in that it will save them the journey of fifty five miles between Fresno and Merced for rail or about twenty miles between Fresno and Merced for stage now necessary to reach the nearest rail or stage connection.

It was further explained that Fresno citizens have invested considerable money in the railroad which is to operate to Wishon with that end in view, and that the stage connection between Wishon and the park would be necessary to make the railroad effective in handling tourist traffic from Fresno. In this connection Mr. Aynsworth stated: "This community for a number of years has been interested in having a means of communication with the Yosemite Park, and this line we feel will give us a means to reach the Yosemite Valley and help develop the points between. Of course, any other connecting line would do the same thing, if responsible, and our interest is in getting that kind of line, and this, it seems to us, offers the most favorable opportunity that has yet been presented to

the Chamber".

Applicant was opposed by the Madera-Yosemite-Big Trees Auto Company ("Horse Shoe Route") on the ground that public necessity at the time of the filing of the application did not require operation of a stage line from Wishon Station to the boundary for the reason that the Minarets and Western Railroad had not been completed; further, that protestant has applied for a certificate to transport passengers between Wishon and Miami Lodge before this Commission, where connection with protestant's main service over the Wawona Road may be established. Neither objection appears of effect.

Protestant also advanced two further arguments:- First, that it, by lease right of the contract between the National Government and Yosemite Stage and Turnpike Company is permitted to transport passengers from the exterior to the interior of the park, or vice versa, and that the applicant's service between Fresno and the park boundary, and between Wishon and the park boundary, would be of no value to the public because no part of the public would travel merely to the boundary, and the contracts between protestant Yosemite Stage and Turnpike Company and the Government, and the applicant and the Government, prevented the delivery of passengers inside the park boundary; second, that the method of transportation between Wishon and the boundary does not provide for the care and comfort of the passengers, and that the care and comfort of the passengers may be best provided for by transporting them by way of Miami Lodge (served by protestant "Horse Shoe Route") where rest and lunch may be had.

Copies of the contracts between applicant, protestant, and the Government were filed herein. An examination of them does not disclose lack of freedom on the part of the Government to extend to

other operators privileges similar to those now enjoyed by applicant and protestant within the park boundaries. In explanation of the attitude of the Government in this matter applicant filed in this proceeding a communication (Applicant's Exhibit No.1) from W. B. Lewis, Superintendent of Yosemite Park, in which Mr. Lewis made this written statement:

> "Among the primary interests and duties of the National Park service is that of seeing that satisfactory transportation service is given within Yosemite National Park, and in accordance with this, insists upon park public operators of transportation service being equipped to meet every demand for transportation service made upon them, irrespective of the source of the business offered, when it is reasonably possible for such service to be given. This policy holds in connection with any business that might be offered over any line operating from Fresno to the park the same as in any other case".

We are of the opinion that if the service proposed by the applicant were established by authority of this Commission the Secretary of the Interior is in full possession of the power and authority necessary to arrange for the delivery of the passengers within the park boundaries, as the statement of Mr. Lewis indicates. We are further of the opinion that it is not necessary to consider the necessity of a detour to Miami Lodge, or any other point not proposed by applicant for the care, comfort, and lunching of passengers being transported by applicant.

Applicant stipulated that if a certificate should be granted by this Commission it be without force and effect until such time as the applicant has made proper arrangements with the Government for the delivery of its passengers to points within the National Park.

In view of the above stipulation, the testimony of witnesses for applicant, and the benefit that any new and efficient method of access to Yosemite National Park will provide, and basing our findings on the testimony in the record, we find as a fact that public necessity requires the service proposed by applicant in its original application. The Commission cannot, however, act affirmatively upon the application as amended, in view of the fact that while applicant asks permission to establish a number of joint rates and through routes, the amended application does not contain schedule of the joint rates proposed and until such time as this schedule is submitted for the approval of the Commission that portion of the application must be denied.

ORDER

Yosemite National Park Company having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a passenger and hand baggage service between Fresno and Yosemite National Park boundary near Mariposa Grove of Big Trees, a public hearing having been held, the matter having been duly submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by applicant of passenger and hand baggage service between Fresno and Wishon and the boundary of the Yosemite National Park, over and along the following routes:

> Via Blackstone Avenue, Lane's Bridge, Bates Station, Coarse Gold, Wishon and Wawona Road; provided, however, that either of the following two routes may be used when road conditions necessitate:
>
> Via Friant, Belleview, O'Neals, Wishon and Wawona Road.
>
> Via Clovis, Auberry, South Fork, Wishon and Wawona Road.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted, subject to the following conditions:

1. That no passengers or baggage shall be transported by applicant under the certificate hereinabove granted unless such passengers or baggage originate at Fresno or Wishon, destined to Yosemite Valley, or originate in Yosemite Valley, destined to Wishon or Fresno. Said certificate expressly prohibits the transportation of passengers between any intermediate points whatsoever between Fresno and Wishon and the boundary line of Yosemite National Park.

2. Applicant shall file, within a period of not to exceed ten (10) days from the date hereof, its written acceptance of the certificate herein granted, which written acceptance shall contain a statement to the effect that applicant fully understands the provisions of the certificate herein and that said conditions will be fully complied with, provided said certificate is made effective, and shall also contain a statement to the effect that said certificate is accepted only on condition that it become effective after applicant has obtained the right to transport and deliver passengers from Fresno or Wishon to the floor of Yosemite Valley, and shall have obtained from the Railroad Commission a supplemental order reciting that said authorization has been obtained and prescribing a specified time within which operations shall be commenced.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred, nor assigned without the written consent of the Railroad Commission first having been obtained.

4. No vehicle may be operated by applicant unless such vehicle is owned by said applicant, or is leased by it on terms satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 11th day of September, 1923.

C. L. Seavey

H. M. Brundige

Irving Martin

J. T. Whitsell

Commissioners.