

ORIGINAL

Decision No. 13567

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC AUTO STAGES, a corporation,)
 for a certificate of public conven-)
 ience and necessity to operate pass-) Application No. 9324.
 enger and express service between)
 San Jose, Agnew, Alviso and inter-)
 mediate points.)

In the Matter of the Application of)
 J. F. MALONEY and GEORGE E. GILSON,)
 co-partners, for a certificate of)
 public convenience and necessity for) Application No. 9595.
 the operation of an automobile stage)
 line between San Jose and Agnew, Al-)
 viso and intermediate points.)

Devlin & Brookman, by Frank R. Devlin, for
 Applicant in App. 9324 and as protestant
 in App. 9595.

Gwyn H. Baker, Herbert C. Jones and Gilbert
 D. Boalt, for Applicant in App. 9595.

F. W. Mielke, for Southern Pacific Company,
 protestant.

Edward Stern, for American Railway Express
 Co., protestant.

F. E. Chapin and Wm. F. James, for San Jose
 Railroads and Peninsular Railway Co.,
 protestant in App. 9595.

BY THE COMMISSION:

O P I N I O N

Pacific Auto Stages, a corporation, has petitioned the
 Railroad Commission, in accordance with its amended application, for
 an order declaring that public convenience and necessity require the
 operation by it of an automobile stage line as a common carrier of
 passengers and express between San Jose and Alviso, serving Agnew
 and intermediate points via First Street out of San Jose; or between
 San Jose and Alviso, serving Santa Clara and Agnew and intermediate

points, provided, however, that no passengers or express shall be carried locally over the latter route between San Jose and Santa Clara.

Applicant proposes to charge rates as alleged and set out in paragraph 6 of its amended application and to operate on a time schedule in accordance with either Exhibit "A" or Exhibit "B" attached to said amended application, and to use the same or similar equipment now used in its existing service.

J. F. Maloney and George E. Gilson, co-partners, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line as a common carrier of passengers and express between San Jose and Milviso, serving Santa Clara, Agnew and intermediate points.

Applicants propose to charge rates and to operate on a time schedule in accordance with Exhibit "A" and amended Exhibit "B" attached to said application, using the equipment described in Exhibit "C" attached to said application.

Public hearings on said applications were conducted before Examiner Satterwhite at San Francisco, the matters were submitted and are now ready for decision. This Commission has deemed it advisable and proper to consolidate the said applications for the purpose of its decision in said matters.

Pacific Auto Stages, applicant herein, Southern Pacific Company, American Railway Express Company, San Jose Railroads and the Peninsular Railway Company protested the granting of the application of J. F. Maloney and George E. Gilson, co-partners. The Southern Pacific Company and the American Railway Express Company also protested the granting of the application of said Pacific Auto Stages, a corporation.

The consolidation of said applications for the purpose of receiving evidence was not allowed at the hearings because of the objection to such consolidation made by the said Pacific Auto Stages at the time the matters were called for hearing. The Pacific Auto Stages presented its evidence in support of its original application and rested, before any affirmative evidence or showing was received on behalf of J. F. Maloney and George E. Gilson.

Pacific Auto Stages called about twelve witnesses in support of its original application. J. F. Maloney and George E. Gilson also called several witnesses in support of their application.

The evidence shows that the Agnew State Hospital is situated at Agnew and that practically the main volume of the passenger traffic proposed to be served will move to and from this state hospital.

The number of people employed at the hospital, consisting of officials, nurses, attendants and others, totals about 200; and a majority of them have occasion to make trips to San Jose or Santa Clara from time to time for social, business or recreation purposes. The far greater volume of traffic, however, to and from the hospital, consists of visitors, which in summer time amount to about 400 persons weekly and about 200 a week in the winter time. The record shows that at least 70 per cent of all visitors come from San Francisco and Bay points and most of these, excepting those who use private automobiles, are compelled to avail themselves of the rail or auto stage carriers who pass through the town of Santa Clara, distant about two or three miles from Agnew. There are three or four jitney or taxicab operators who carry these visitors between Santa Clara and Agnew Hospital at a fare about double that proposed by either of said applicants.

It was shown that the train service of the Southern Pacific Company is unsatisfactory and inadequate, both to the employees and visitors at the hospital, for the reason that there is but one train

from the Bay region, arriving daily at 10:18 a.m. at Agnew and but two trains daily to the Bay region, leaving Agnew at 4:58 a.m. and 3:57 p.m. These trains also are the only available transportation facilities afforded Alviso, where are located the Bayside Canning Company and other industries which employ a considerable number of men and women.

The record shows that the residents of Alviso and the farmers in that vicinity who go to San Jose for business and social purposes desire the proposed stage service.

As to the proposed limited express service, it was shown that considerable buying of goods, wares and merchandise in small packages or parcels within the weight proposed to be carried is done at San Jose by nearly all the people connected with the hospital and that such a service will afford a fast, frequent and direct delivery to the hospital.

The evidence, both oral and documentary, presented by both applicants during the course of these proceedings, convinces the Commission that the public necessity and convenience require the proposed service between San Jose and Alviso by way of Santa Clara as now sought by each of said applicants.

It appears, however, without question that the San Jose Railroads are rendering an adequate local service between Santa Clara and San Jose and no additional service will be authorized between these points.

It is conceded that one stage line will be adequate to take care of the traffic proposed to be served.

Although the Pacific Auto Stages, a corporation, filed its application prior to that of J. F. Maloney and George H. Gilson, co-partners, proposing to serve the same terminals, the record shows that it did not abandon or rather modify its original proposal until it

became apparent by proof offered by the other applicant that the public necessity and convenience would be far better and more adequately served by the service proposed by said Maloney and Gilson.

We have therefore concluded that J. F. Maloney and George E. Gilson, co-partners, are entitled to the necessary certificate of public convenience and necessity to conduct their proposed operations.

O R D E R

Public hearings having been held in the above entitled applications, the matters having been submitted and being now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by J. F. Maloney and George E. Gilson, co-partners, of an automobile stage line as a common carrier of passengers and express between San Jose and Alviso, serving Santa Clara, Agnew and intermediate points, provided, however, that no express package or parcel shall be carried by said applicants which exceeds thirty pounds in weight, and provided further, that no passengers or express shall be carried locally between San Jose and Santa Clara, and

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

1. Applicants J. F. Maloney and George E. Gilson, co-partners, shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.

2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

3. No vehicle may be operated by applicants J. F. Maloney and George E. Gilson, co-partners, unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by Pacific Auto Stages, a corporation, of an automobile stage line as a common carrier of passengers and express between San Jose and Alviso, serving Agnew and intermediate points via First Street out of San Jose; or between San Jose and Alviso, serving Santa Clara and Agnew and intermediate points, and

IT IS HEREBY ORDERED that said amended application of Pacific Auto Stages be, and the same is hereby denied.

Dated at San Francisco, California, this 17th day of May, 1924.

C. Chesney

James Martin
Byron Shore

Commissioners.