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Decision No. 14164

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of  
AL. ASKIN STAGE COMPANY, a co-partner-  
ship, for certificate of public con-  
venience and necessity to operate  
a passenger and express service between  
Visalia and Lemon Cove and intermediate  
points.

) ORIGINAL

:Application No. 10,460

In the Matter of the Application of  
SEQUOIA NATIONAL PARK STAGE COMPANY,  
a co-partnership, for certificate of  
public convenience and necessity to  
operate a passenger and express ser-  
vice between Lemon Cove and Visalia.

:Application No. 10,473

Earl A. Bagby for Applicants

Power and McFadzean, by Daniel McFadzean,  
for Visalia Electric Railroad Company

Ernest Walling for Valley Transit Company,  
Protestant

Frank Lamberson for Woodlake Board of Trade,  
Protestant

C. C. Lacy for Southern Pacific Company,  
Protestant

R. N. Richardson for Exeter Chamber of Commerce,  
Protestant.

BY THE COMMISSION:

O P I N I O N

In Application No. 10,460 E. L. Askin, W. C.  
Ogilvie and Fred N. Ogilvie, co-partners, proposing to operate  
under the fictitious name and style of Al. Askin Stage Company,  
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, baggage and express between Visalia, Exeter and Lemon Cove, serving as intermediates the communities at Farmersville, Lindcove, Woodlake and Klink.

In Application No. 10,473, E. L. Askin and Orval Overall, co-partners doing business under the fictitious name and style of Sequoia National Park Stage Company, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage service as a common carrier of passengers and express between Visalia and Lemon Cove as an extension of applicants' present operative rights between Lemon Cove and Sequoia National Park.

A public hearing on these applications was conducted by Examiner Handford at Visalia at which time the matters were consolidated for the purpose of receiving evidence, were duly submitted and are now ready for decision.

Applicants in Application No. 10,460 propose to charge rates in accordance with a schedule marked Exhibit "A" as filed with the application herein and to operate on a schedule as shown in Exhibit "B" as filed with the application and over the following described route:

Commencing at Hotel Johnson, Visalia, thence east via Mineral King Avenue a distance of four miles to Scott's Corner, thence south two miles to Farmersville, thence east about four miles to the Exeter Southern Pacific depot. Leave Exeter at the northeast corner of the town, thence north two miles to the Mineral King Highway, thence easterly and northerly via the State Highway to Lindcove, thence northeasterly on the State Highway to Lemon Cove and Highway Junction, a distance of one and five-eighths miles, thence northwesterly and generally west five and one-half miles to Woodlake; thence west and southwesterly about five miles to Klink; and thence about eight miles southerly and westerly to Visalia.

The equipment proposed to be used consists of three Packard Touring cars; one White, one Packard and one Garford truck, all to be acquired by lease from the Sequoia National Park Stage Company and to be used until such time as applicants can have their own equipment constructed which is to be of a type and design to be approved by the Commission.

Applicants rely as justification for the granting of the desired certificate upon the alleged facts that the Visalia Electric Railroad Company is now seeking to discontinue its passenger, mail and local express service between Visalia and Woodlake; that such action would eliminate the Sequoia National Park Stage Company as regards its securing passengers as heretofore handled by the railroad from Exeter to Lemon Cove; that Woodlake, Lemon Cove and adjoining communities would be without local passenger and express service; and that the granting of the application would be helpful to the local communities in that it would supply a service that with the discontinuance of the railroad service would no longer be available.

By stipulation applicants agreed to the elimination of any local passenger or express service between Visalia and Exeter, and by reason of such stipulation the Valley Transit Company, Southern Pacific Company and Exeter Chamber of Commerce withdrew their respective protests.

The Visalia Chamber of Commerce and the Lemon Cove Board<sup>of Trade</sup> by resolutions filed herein endorse the operation proposed by applicants, such operation being intended to replace the local service in the carriage of passengers, baggage and express as heretofore given by the Visalia Electric Railroad Company and such company having been authorized by this Commission in its Decision No. 14/53 on Application No. 10,451, as decided

October 9th, 1924 to discontinue passenger service over its railroad line.

The granting of the desired certificate is protested by the Woodlake Board of Trade on the basis that applicants do not propose as good service as formerly offered by the Visalia Electric Railroad and that mail and parcel post would suffer delay if transported on the proposed schedules. As regards the passenger and express service applicants stipulated that they would furnish such additional service as the business might justify or as the Commission might require. As to the mail service the Commission has no authority or jurisdiction. The Post Office Department of the Federal Government may select such agency as it deems proper to care for the transportation of the mail and parcel post between Visalia, Exeter, Lemon Cove, Woodlake and other communities heretofore served by the Visalia Electric Railroad and applicants are not able to assure the residents of any of these communities that they will be in a position to render satisfactory schedules for the carriage of mail and parcel post until authority for such carriage has been arranged for with the proper Federal officials. As regards the carriage of passengers and express applicants have stipulated that they would supply such additional schedules beyond those now proposed as might be justified by the volume of traffic offering or as might hereafter be directed by this Commission. Such stipulation should satisfactorily care for the needs of the community at Woodlake as regards their transportation needs in the matter of passenger and express traffic, for if sufficient business offers justifying additional schedules, applicants are bound by their voluntary stipulation and will be required to furnish the additional service.

We are of the opinion on the record herein that applicants have justified the granting of a certificate and that the public convenience and necessity require the granting of same in accordance with the provisions hereinafter contained in the annexed order.

In Application No. 10,473 applicants propose to charge rates in accordance with a schedule marked Exhibit "A" attached to the application and to operate one round trip daily from July 1 to September 10, inclusive, of each year, over the Mineral King Highway from Lemon Cove to a terminus at the Hotel Johnson in Visalia. The equipment proposed to be used is that already owned by applicants and operated by them in the conduct of their present authorized line from Lemon Cove to Sequoia National Park.

Applicants rely as justification for the granting of the desired certificate on the following alleged facts: that the Visalia Electric Railroad Company is now seeking authority from the Railroad Commission to discontinue its passenger train service between Visalia and Woodlake thereby eliminating a link in the through service heretofore rendered between Visalia and Sequoia National Park; and that the granting of the application will enable a continuation of the through service and give additional and needed service to the local communities.

As hereinabove outlined in the discussion of the evidence in Application No. 10,460 the Commission by its Decision No. 14453 on Application No. 10,451 as decided October 9<sup>th</sup>, 1924, authorized the discontinuance of passenger train service on the Visalia Electric Railroad and the proposed extension of the automobile stage service of the applicants will enable through service to be given from Visalia to Sequoia National Park

and Mineral King which was formerly rendered by the Visalia Electric Railroad from Visalia and Exeter to Lemon Cove, passengers and express matter being transferred at such point to the stages of the applicants. The need for a continuance of the facilities for the making of a continuous trip is established by the testimony of the applicants' witnesses, supplemented by resolutions of the Visalia Chamber of Commerce and the Lemon Cove Board of Trade.

There was a protest as to the route proposed by applicants between Visalia and Lemon Cove, applicants having proposed to operate directly east from Visalia through Merriman and thence in a generally northeasterly direction through Lindcove to Lemon Cove. Protestants representing Exeter and the Chamber of Commerce at Exeter object to the condition which would be created by the cessation of passenger service as heretofore rendered by the Visalia Electric Railroad in that no transportation would be directly available from Exeter to the Sequoia National Park for the residents of that community and for tourists arriving by Southern Pacific trains at Exeter Station. Applicants had proposed the most direct route from Visalia to Lemon Cove as a portion of the through service to Sequoia National Park on the basis that the passengers originating from the Southern Pacific trains at Exeter and from that community destined to the Sequoia National Park would be handled between Exeter and Lemon Cove by the stages of the Al. Askin Stage Company transferring at Lemon Cove to and from the stages of applicants. This additional transfer is objected to by the protestants representing Exeter and there appears no valid reason why it should be necessary to use the facilities of another transportation entity to accomplish

the through service and to replace the through route of which the Visalia Electric Railroad formerly was a part, when by a change in route between Visalia and Lemon Cove the needs of the patrons originating at Exeter and using Southern Pacific trains to and from such point can be cared for.

From a statement filed by applicants it appears that of the interline tickets honored during the season of 1924 to National Park points 83% originated with the Southern Pacific Company, 5% with the Atchison, Topeka and Santa Fe Railway Company and 12% with the Visalia Electric Railroad Company thus showing that the larger proportion of passengers used the Southern Pacific Company with transfer at Exeter.

Applicants stipulated that application would be amended as to the route from Visalia to Lemon Cove <sup>via</sup> Farmersville and Exeter thus caring for the business originating at Exeter and further stipulated that no local business would be handled between Visalia and Exeter and intermediate points. This stipulation resulted in the Southern Pacific Company and the Valley Transit Company withdrawing their respective protests.

From the record herein we are of the opinion and hereby find as a fact that the public convenience and necessity require the extension of applicants present operative rights from Lemon Cove to Sequoia National Park and Mineral King by adding the route between Visalia and Lemon Cove via Farmersville and Exeter under the conditions as hereinafter set forth in the following order.

## O R D E R

A public hearing having been held on the above entitled proceedings, the matters having been consolidated for the purpose of receiving evidence and for decision and having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity requires the operation by E. L. Askin, W. G. Ogilvie and Fred N. Ogilvie, co-partners proposing to operate under the fictitious name and style of Al. Askin Stage Company, of an automobile stage line as a common carrier of passengers, baggage and express between Visalia, Exeter and Lemon Cove, serving as intermediates the communities at Farmersville, Lindcove, Woodlake and Klink, provided, however, that no local business shall be handled between Visalia and Exeter and intermediate points, such transportation necessities being adequately cared for by the trains of the Southern Pacific Company and the stages of the Valley Transit Company. The route herein authorized is as follows:

Commencing at Hotel Johnson, Visalia, thence east via Mineral King Avenue a distance of four miles to Scott's Corner, thence south two miles to Farmersville, thence east about four miles to the Exeter Southern Pacific Company depot. Leaving Exeter at the northeast corner of the town, thence north two miles to the Mineral King Highway, thence easterly and northerly via the state highway to Lindcove, thence northeasterly on the state highway to Lemon Cove and Highway Junction, a distance of one and five-eighths miles, thence northwesterly and generally west five and one-half miles to Woodlake; thence west and southwesterly about five miles to Klink; and thence about eight miles southerly and westerly to Visalia.



IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to said E. L. Askin, W.C. Ogilvie and Fred M. Ogilvie, co-partners proposing to do business under the fictitious name and style of Al. Askin Stage Company for the operation of an automobile stage line as a common carrier of passengers, baggage and express over the hereinabove described route and in accordance with the following requirements, provided, however, that no authority is hereby conveyed for the transportation of passengers, baggage and express locally between Visalia and Exeter and intermediate points.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by E. L. Askin and Orval Overall, co-partners doing business under the fictitious name and style of Sequoia National Park Stage Company, of an automobile stage line as a common carrier of passengers, baggage and express between Visalia and Lemon Cove, via Farmersville and Exeter, not as a new and independent operative right but as an extension of their present operative rights between Lemon Cove and Sequoia National Park, and to be operated seasonally as a portion of and in conjunction with through stage service from Visalia to the Sequoia National Park, via Exeter, provided, however, that no local passengers, baggage or express shall be handled between Visalia and Exeter and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to E. L. Askin and Orval Overall, co-partners operating under the fictitious name and style of Sequoia National Park Stage Company, covering the extension of service to be operated as a

part of and in conjunction with their present authorized operative rights between Lemon Cove and Sequoia National Park, and subject to the following conditions:

I. Applicants are hereby required to file with the Railroad Commission within fifteen (15) days from the date of this order their written acceptances of the terms and conditions of the certificates herein granted, such acceptances to state the date upon which the service herein authorized will commence, and which commencement of service as to applicants in Application No. 10,460 shall be within thirty (30) days from the date of this order, unless the time of commencement of such service by said applicants shall have been extended by supplemental order of this Commission.

II. Applicants are hereby required to file with this Commission, in duplicate, their schedules of rates, and rules and regulations governing same, and time schedules, at least ten (10) days prior to the commencement of operation as hereinbefore provided, all tariff and schedule filings to be made in accordance with the provisions of General Order No. 51 and other regulations of this Commission, said General Order and other regulations being hereby made a portion of this order insofar as applicable to these proceedings.

III. The rights and privileges herein granted may not hereafter be sold, transferred, assigned, leased or hypothecated by applicants herein unless such sale, transfer, assignment, lease or hypothecation has first been approved by the written consent of the Railroad Commission.

IV. No vehicle may be operated under the authority of this order by the applicants herein, or either of them, unless such vehicle is owned by such applicants, or is leased by them under the provisions of a contract or agreement on a basis satisfactory to and approved by the Railroad Commission.

Dated at San Francisco, California, this 10<sup>th</sup>  
day of October, 1924.

C. C. Kearney  
H. B. Brown  
James Martin

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Commissioners