

Decision No. 14391

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

R. R. YOUNG, doing business under the name of YOSEMITE TRANSIT,

Complainant,

vs.

H. T. HEMPSTEAD and N. F. RAWLINS,
co-partners doing business under the
fictitious name of OAKLAND-TUOLUMNE
STAGE COMPANY,

Defendants.

ORIGINAL

CASE NO. 2032.

Harry A. Knecht and James A. Miller and
Lafayette J. Smallpage, for complainant.

Douglas Brookman, for defendants.

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

H. A. Burchard, for Sierra Railway Company,
intervenor.

MARTIN, Commissioner.

O P I N I O N

R. R. Young, doing business under the fictitious name of Yosemite Transit, has filed a complaint with the Railroad Commission against H. T. Hempstead and N. F. Rawlins, co-partners, doing business under the fictitious name of Oakland-Tuolumne Stage Company, in which he alleges in effect that complainants are at the present time, and have been for some time last past, engaged, among other things, in the operation of an automotive stage line for the transportation of passengers for compensation between Stockton, Groveland and Carl Inn; that defendants H. T. Hempstead and N. F. Rawlins, co-partners, are engaged in the

operation of an automotive stage line under the firm name of Oakland-Tuolumne Stage Company, transporting passengers for compensation between the City of Oakland and the Oakland Recreation Camp located on the line of complainant's stages between Groveland and Carl Inn and between the City of Berkeley and the Berkeley Recreation Camp, located within 6 miles of the Oakland Recreation Camp; that the certificate of public convenience and necessity under which defendants are operating limits them solely to the transportation of passengers for compensation between the termini hereinabove named; that it expressly prohibits the transportation of passengers between intermediate points or the transportation of express matter or property for compensation between any points whatsoever; that subsequent to the commencement of operation by defendants their stages have carried passengers between intermediate points and have also carried express matter, including groceries, etc., to and from the Recreation Camps in direct violation of the provisions of the certificate under which they are authorized to operate.

A public hearing in the above entitled complaint was held on October 21, 1924 in the Court Room of the Commission at San Francisco, at which time evidence was introduced. The matter was submitted and is now ready for decision.

Complainant called several witnesses in support of the allegations set forth in his complaint. One of these witnesses, operating a resort at the terminus of complainant's stage line, testified in effect that he has had occasion to travel over such route a number of times and that he has observed stages of defendants carrying fresh meats and other property on their trips to the Recreation Camps. Other witnesses of complainant testified that for a period of time they had checked the stages of defendants at Groveland and also at Oakdale and that stages

carrying identical license numbers on the same trips, either arriving at or departing from one of the points hereinabove mentioned, contained a different number of passengers from the count when such stage was checked at the opposite checking point.

Evidence was further introduced to the effect that a driver of defendants' line was arrested for proceeding with a stage over a railroad crossing without first coming to a full stop.

In defense of the allegations set forth in the complaint and testified to by witnesses called by complainant, defendants admitted that at times they had carried fresh meats and supplies to the Recreation Camps upon request of camp authorities who were in immediate need of such supplies, but at no time had they made any charge whatsoever for this service, it being merely rendered as an accommodation when the Camp was short of specific items which could not be obtained through its regular transportation channels. They further disclaimed discrepancies in the check conducted by witnesses called by complainant by stating that during approximately a 50-day period of the 1924 season passengers had been changed from one stage to another at Oakdale; farther, that the driver who was arrested for proceeding over a railroad crossing without first coming to a full stop had been immediately discharged.

From the evidence submitted in this proceeding, it would appear that the most serious allegation is the one referring to the transportation of passengers between intermediate points. This allegation, however, is not fully borne out by testimony submitted in this proceeding. It appears reasonable that if defendants had been engaged in violation of this provision of the certificate evidence of the fact could easily have been obtained by having an individual or individuals ride between intermediate

points upon their stages and pay compensation for such services. Complainant, however, submitted no testimony whatever directly to the effect that any passenger had at any time been carried between intermediate points by defendants herein.

In view of the evidence submitted in this proceeding, we are of the opinion that the allegations set forth in the complaint herein have not been substantiated and that the complaint must be dismissed.

O R D E R

A public hearing having been held in the above entitled proceeding, evidence introduced and the matter submitted,

IT IS HEREBY ORDERED that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 23rd day of December, 1924.

C. S. Lewis

James M. Martin

J. T. Whittsey
Commissioner