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Decision No. 14392

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
the OAKLAND-TUOLUMNE STAGE LINE for
a certificate to operate an auto
stage service between Oakland and
Oakland Recreation Park in Tuolumne
County.

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:Application No. 9982
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Devlin and Brookman by Douglas Brookman, for
Applicant.

H. H. Gogarty, for Southern Pacific Company,
Protestant.

Lafayette J. Smallpage, for Yosemite Transit,
Protestant.

H. A. Butchart, for Sierra Railway Company of
California, Protestant.

Robert M. Searls, for City and County of San
Francisco, Protestant.

F. D. Sverman, for California Transit Company,
Protestant.

MARTIN, Commissioner:

OPINION

In the above entitled proceeding E. T. Hempstead
and N. F. Rawlings, co-partners doing business under the name
of Oakland-Tuolumne Stage Line, petitioned the Railroad Com-
mission for a certificate of public convenience and necessity
authorizing the operation of an automotive passenger stage line
as a common carrier of passengers between Berkeley on the one

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hand and Berkeley Recreation Camp in Tuolumne County and between Oakland and Oakland Recreation Camp in Tuolumne County.

Public hearings were held upon said application, the matter submitted and on May 29, 1924, the Railroad Commission issued its Decision No. 13625 in which decision the application was granted.

On June 9, 1924, R.R. Young, doing business under the name of Yosemite Transit, and California Transit Company, a corporation, protestants, filed a petition for rehearing. On November 3, 1924, the Railroad Commission issued its order which order directed that Application No. 9982 be reopened for the taking of further testimony and reception of further argument by the parties, and said further hearing was set for December 17, 1924, in the Courtroom of the Railroad Commission, San Francisco. This date was later changed to December 2nd, at the same time and place at which time testimony and exhibits were introduced, oral argument made and the matter was submitted and is now ready for decision.

It is not necessary in this decision to review evidence introduced at the original hearing nor the findings of the Commission upon which it based its order granting the certificate prayed for. As regards additional evidence introduced at the further hearing, protestant R.R. Young presented testimony and contended that his service had always been operated at a material loss during the winter months and that to enable him to render service to residents in the territory served by him the year round it was necessary that his company enjoy all available revenue during the summer period to enable it to conduct its winter business. Further, that during the period January 1st to October 31st, 1924, which period included all the summer season, his total revenues on his various stage operations amounted to the sum of \$73,344.06; total expense

\$74,106.14 or a loss for the 10 months period of \$762.08.

This protestant introduced further exhibits showing that he had available 19 passenger cars with a total seating capacity of 236 seats; that approximately only 7 cars were required to operate regular schedules and leaving one in reserve at Sonora with a total seating capacity of 95, showing a reserve seating capacity to handle extraordinary traffic amounting to 141. A similar exhibit was also introduced by the California Transit Company with respect to the available equipment and seating capacity. There can be no question but that the California Transit Company operating stages from Oakland to Stockton and connecting at Stockton with protestant Young's line, Stockton to Groveland and Carl Inn, have sufficient equipment and seating capacity to care for all traffic offered between the points served by said companies.

Protestant Young introduced an exhibit to the effect that during the year 1923, that is the summer season period prior to the commencement of operation by applicants herein; that his line transported from and to Stockton and from and to the Oakland and Berkeley Recreation Camps a total of 200 passengers; that during the summer season of 1924, a period during which applicants were conducting their operations between Oakland and Berkeley and the respective city recreation camps, his line transported only three passengers; that such traffic loss would necessarily result in either a total discontinuance of winter service in the mountains or would result in a material increase in rates.

By reference to the 1925 annual report of protestant Young it appears that his line during the year 1923 transported a total of 55,294 passengers, therefore, the 200 passengers carried to or from the camps would be only approximately three

tenths of one per cent of the total number of passengers transported. The total operating revenue amounted to \$151,273.39, the camp revenues being less than one per cent of the total revenue received. From such figures it appears that the loss of this particular business does not materially or even appreciably affect the operation of this protestant.

It was shown and admitted that the applicant Oakland-Tuolumne Stage Line had operated at a material loss during the 1924 season. This was attributed to three separate causes. First, that Oakland had established a second recreation camp in the Feather River Canyon to which a considerable portion of its vacationists had been assigned; second, to conditions existing during the last year as regards the hoof and mouth epidemic and the prevalence of forest fires; third, that the service of applicants had been commenced after the advertising literature of the recreation departments had been published and that accordingly vacationists were not advised.

J. B. Wash, Supt. of the Oakland Recreation Grounds, who testified at the original hearing, testified further in the instant proceeding that applicants during the season of 1924 had rendered a very satisfactory and efficient service. Counsel for applicants read into the record two letters from the Berkeley and Oakland Recreation Departments, respectively, in which both departments commended the service rendered by the co-partners, applicants herein.

The matter of the establishment of recreational and vacational camps by municipalities is a matter of comparatively recent origin. As evidenced by the testimony in these proceedings and as appears reasonable and natural, school authorities and those in charge of recreational facilities and likewise the parents of school children prefer a special service conducted

for their exclusive benefit to and from the municipality and the recreational camp. It is this character of service that the Oakland-Tuolumne Stage Line proposes to furnish. In the furnishing of this special service, to the extent that the same is furnished, it is quite likely to, and indisputably does in the present instance, come into competition with established carriers who have adequate facilities for furnishing a general transportation service. The question then for the Commission to decide is whether or not the school children of a municipality and their parents are entitled to this special service, notwithstanding the fact that it may operate to a limited extent to the financial disadvantage of the established carriers. In the present instance it does not appear that the revenue which the established carriers would derive from the transportation to and from the recreational camps would very materially affect their revenues. If public interest and convenience and the desire of the school authorities and school children and their parents can be better served by the special proposed service, and there is no material resulting financial handicap to the existing carriers, the Commission feels that it is warranted in granting the certificate.

After careful consideration of the additional testimony introduced and of the oral argument by counsel, it does not appear that protestants have sustained their contention that the public does not require the service as heretofore authorized and it is hereby found as a fact that said order in Decision No. 13625 should be reaffirmed with a modification in accordance with stipulation by counsel to the effect that the service be made effective solely during the season of

the year that the recreation camps are open, being approximately June 1st to September 15th of each year. An order will be entered accordingly.

ORDER

Further hearing having been held in the above entitled proceeding, evidence and exhibits introduced, oral argument received and the matter now being submitted and ready for decision and the Commission being fully advised,

IT IS HEREBY ORDERED that the order in Decision No. 13625 be and the same hereby is amended by adding to the conditions therein contained the following:

The certificate hereinbefore granted be and the same is hereby made effective only during the period of the year when the Oakland and Berkeley Recreation Camps are open to the public, which period is found to be approximately June 1st to September 15th of each year.

IT IS HEREBY FURTHER ORDERED that the Commission's Decision No. 13625 be and the same hereby is reaffirmed with the modification as herein set forth.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

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

C. S. Seaver

Sharing Masters

J. T. Whittier
Commissioners