

McS

Decision No. 74407

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

-oOo-

ORIGINAL

In the Matter of the Application of)
 JOSEPH MILLER for certificate of)
 public convenience and necessity to :Application No. 9889
 operate passenger and express service)
 between Visalia and San Jose.)

In the Matter of the Application of)
 LEWIS A. MONROE, Joint Agent, for an :
 order granting permission to publish)
 and file tariff containing through)
 joint passenger fares and for per- :
 mission to sell through tickets bet-)
 ween Bells Station, San Luis Ranch, :
 Los Banos and Fresno, served by Pacheco :
 Stages, on the one hand, and points :Application No. 10311
 served by Highway Stage Line and Pick-)
 wick Stages N.D.Inc., San Francisco)
 to San Luis Obispo, inclusive, via San :
 Juan, Hollister or Gilroy, on the other :
 hand, such through fares to be based :
 on full combination of local fares. :

In the Matter of the Application of :
 Lewis A. Monroe, as agent for the Pick-)
 wick Stages N. D. Inc. for an order)
 granting permission to publish and :
 file a supplement to its local pas- :
 senger tariff showing interdivision)Application No. 10488
 fares between points on its main line,)
 San Francisco to King City inclusive, :
 and Bells Sta. San Luis Rancho, Los :
 Banos, and Fresno, on Pacheco Division :
 based on combination of local fares.)

Earl A. Bagby for Applicant in Application No. 9889 and Protestant.

Warren E. Libby for Applicants in Applications Nos. 10311 and 10488, and Protestants.

- J. E. McCurdy for Peninsula Rapid Transit Co.
and Auto Transit Co. Protestants.
- A. S. Weston and Ed Stern for American Railway
Express Co. Protestant.
- E. T. Lucey for Atchison Topeka & Santa Fe Rwy Co.
Protestant.
- H. H. Gogarty and W.T. Plummer for Southern Pacific
Co. Protestant.
- E.G. Shoup for Peninsula Railway Co. Protestant
- W.E. Simpson for Valley Transit Company and
California Transit Co. Protestants.
- T. L. Stanley for Modesto Chamber of Commerce
- A.R. Linn for Merced and Hanford Chamber of Commerce
- G. E. Leonard for Fresno Chamber of Commerce

MARTIN, Commissioner:

O P I N I O N

The above entitled applications were heard at Fresno on November 18 and 19, 1924, where by stipulation they were consolidated for hearing and decision, evidence was introduced, exhibits filed and the matters were submitted on briefs. Briefs have now been filed and the applications are ready for decision.

Application No. 9889 is an application by Joseph Miller, an individual, in which he petitions for an order of the Commission granting him a blanket certificate covering the operative rights now held by him including the right to operate automotive stage service between Visalia, Hanford and Fresno and between Fresno, Firebaugh, Dos Palos, Los Banos, Tracy and Los Banos and Merced; also for an extension of such consolidated service from Los Banos over Pacheco Pass to Gilroy and San Jose.

Application No. 10311 is an application filed by Lewis A. Monroe as joint agent for Pacheco Stages, operated by Blabon and Cleveland, co-partners, Highway Stage Line operated by Ralph L. and Marguarite Hople, co-partners, and Pickwick Stages, N. D. a

corporation, for the establishment of joint rates over their connecting lines, Pacheco Stages from Fresno, Los Banos to Gilroy, San Juan, and Hollister; Highway Stages, San Jose and Gilroy; Pickwick Stages, San Francisco to San Luis Obispo and intermediate points on the Coast Route.

Subsequent to the filing of Application No. 10311 and prior to the hearing, Pickwick Stages, N.D. Inc., took over the operative right of the Pacheco Stages operated by Blabon and Cleveland, co-partners, which eliminated such applicants as parties hereto.

In accordance therewith, Application No. 10488 was filed by Lewis A. Monroe, as agent for the Pickwick Stages, N. D., a corporation, in which he applied for an order authorizing the establishment of through rates between the Coast lines of the Pickwick Stages and points served by the Pacheco Stages heretofore operated by Blabon and Cleveland.

We will first consider the application of Joseph Miller for a blanket certificate and an extension thereof from Los Banos to Gilroy and San Jose. At the present time applicant Miller holds an operative right between Visalia, Hanford and Lemoore, secured under Decision No. 6085, dated January 28, 1919; an operative right between Hanford and Fresno secured by transfer from the Valley Transit Company under Decision No. 13692, dated June 12, 1924; applicant Miller also owns and operates under the following certificates secured by transfer from one D. Moyer under Decision No. 15282 dated March 9, 1924:

Los Banos to Dos Palos; Decision No. 7249,
Dos Palos and Firebaugh, Decision No. 8017; Fire-
baugh to Fresno, Decision No. 8017; Los Banos to
Tracy, Decision No. 8018 and Los Banos to Merced,
Decision No. 9970.

Applicant called a number of witnesses who testified in support of the necessity which he claimed existed for the establishment of through service over existing certificates and a

through service covering existing points served and the extension proposed to San Jose. Such evidence, however, was far from being conclusive that a public necessity existed for the extension of applicant Miller's operative right to and including San Jose, as most of the witnesses called had no definite knowledge of even the existing service over the Pacheco Pass heretofore rendered by Blabon and Cleveland from Fresno and Los Banos to Gilroy, Hollister and San Juan, where connections are made with the Highway Stages and the Pickwick Stages, N. D. In fact, a number of witnesses testified that they had never been over the route, did not know that such service had been in existence for several years last past and that if the line proposed by applicant were established they would not be patrons. The tendency of the major portion of such evidence was to the effect that the more service rendered the more convenient it would be to any one desiring transportation between the points proposed to be served.

Protestants called several witnesses who had availed themselves of the existing service over the Pacheco Pass and they testified as to the excellent connections made at transfer points. There is at the present time one round trip per day being operated which requires a transfer at Gilroy to either the Highway Stages operated from Gilroy to San Jose or the Pickwick Stages operating over the Coast Route, San Francisco to Los Angeles and the transfer is required at what is known as Bell Station, the Pacheco Stages's Gilroy service not permitting operation through to Fresno.

There is no necessity at this time to review in detail the evidence introduced through a number of witnesses called by applicant herein in support of a proposed extension to San Jose, inasmuch as a considerable number of such witnesses were entirely

unfamiliar with the existing service and also the service proposed by applicant herein. The service proposed by applicant would parallel an existing stage service which the evidence shows is at this time very sparingly patronized; in fact, the stages are operated during the heaviest season of the year at not to exceed one-half to one-third of their seating capacity.

As regards the express service proposed by applicant, only one witness testified as to the necessity for such service, this witness being engaged in operating disinfectant apparatus in bean fields in the Fresno territory. He stated that when such apparatus broke down he was required to secure parts from San Jose and that on several occasions had experienced delays when such parts were shipped by existing means of transportation. No other evidence was introduced as to the necessity for the establishment of express service to San Jose over the Pacheco Pass to Los Banos and Fresno.

With reference to the issuance of a blanket certificate covering the existing operative rights of applicant Miller, regarding Tracy, Merced, Los Banos, Fresno, Hanford and Visalia and intermediate points, it might be well to state at this time that subsequent to the hearing on these proceedings, applicant Miller filed a joint application with the California Transit Company in which he asks for an order of the Commission authorizing the transfer of his operative rights north of Fresno to the California Transit Company, he to retain his rights south of Fresno to Hanford and Visalia. Inasmuch as it would appear that applicant Miller does not desire to retain his rights north of Fresno, it will be unnecessary to consider the granting of a blanket franchise between his lines south of Fresno and those north of Fresno.

Little evidence was introduced as to the necessity for through service between points served by applicant Miller under the certificates which he now holds covering service Fresno to Tracy and Merced. We believe, however, that the interest of the traveling public in this territory will be better served through the establishment of a unified service and through rates in this territory, the same to apply to the territory as at present served by applicant Miller south of Fresno. The granting of this portion of the application would in no way change the service as now being rendered, this part of the application being made in accordance with the provisions of the Commission's order in the Western Motor Transport Case, which order held that the holder of two or more separate certificates could not operate through service or establish through rates unless he had first secured a new certificate authorizing such through service.

It appears from the testimony of applicant Miller that during the summer of 1923 he took over without authority an operative right under a certificate heretofore granted to one S.F.B. Morse authorizing the operation of auto stage service between Merced, Del Monte, Pacific Grove and Monterey. No authority from the Railroad Commission was ever asked for, nor obtained authorizing Miller to operate this service, although he testified that he had a private agreement with Mr. Morse under which he operated his own cars on this route, taking all receipts and paying all expenses, the agreement providing for the privilege to transfer at some future time the operative right from Morse to Miller. Furthermore, Miller, in the operation of the Morse service, transported passengers locally between Merced and Los Banos

on Merced-Monterey Stages, thereby in effect abandoning his own operative right locally between Merced and Los Banos, therefore, the granting of a blanket certificate covering the operative rights of Miller north of Fresno will be with the reservation that the Commission reserves the right to call into question the matter of revoking or annulling the operative right of Miller between Merced and Los Banos if it is shown at the required public hearing that such right was abandoned by applicant Miller or operated in an unlawful manner in connection with the operation of the Merced-Monterey service.

Application No. 10311 of Lewis A. Monroe as joint agent for the applicants Blabon and Cleveland, parties whose stage line is now under lease with option to purchase to the Pickwick Stages, need not be considered herein because the establishment of through rates on this line is before the Commission under Application No. 10488 hereunder consideration. This application should be dismissed.

Application No. 10488, is an application by Lewis A. Monroe, as joint agent for the Pickwick Stages, N.D., Inc., requesting an order authorizing the establishment of interdivision fares between the lines of the Pickwick Stages, N.D., a corporation, as regards their Coast Route and Pacheco Stage line which they have obtained under lease. Such through fares are based on full combination of present local fares over division points and the establishment of such rates would, accordingly, in no way affect the physical operations of present existing stage service, but would only act as a convenience for the traveling public in enabling them to purchase at one time a ticket carrying them over a junction point. The points covered by the proposed through rates are Fresno, Los Banos, San Luis Rancho and Bell Station

on what is known as the Pacheco Stages and points on the Coast Division of the Pickwick Stages, N.D., San Francisco to King City and intermediate points, inclusive.

In this connection it is necessary to review the manner of operation heretofore indulged in by the Pacheco Stages. This line was originally granted a certificate to operate automotive stage service from Fresno to Santa Cruz under Decision No. 7648 dated May 27, 1920. This certificate contained certain restrictions as regards local service in territory at the time served by other stage operators. Under Decision No. 7219 on January 30, 1922, an additional certificate was granted authorizing the operation of auto stage service between Los Banos and Gilroy. During the winter of 1923, the Pacheco Stages applied for and obtained permission to transfer passengers at Bell Station, setting forth as justification, the fact that the two stages, one from Santa Cruz via Hollister and the one from Gilroy met at Bell Station and proceeded over the Pacheco Pass route to Los Banos, at practically identical times; that during the winter months there were never more than one or two passengers on both stages and in no way could two stages be operated economically between Bell Station and Los Banos for such a small number of passengers. Upon this request the Commission granted permission to transfer passengers at Bell Station. A similar permission was granted for the winter of 1924. The Pacheco Stages at the present time operate out of Santa Cruz, through Hollister to Los Banos and Fresno, Gilroy passengers being transferred at Bell Station. This method of operation was questioned by counsel for applicant Miller who claimed that the Pacheco Stages had no right to carry passengers originating on its Gilroy line beyond Los Banos by transferring them to the Santa Cruz-Fresno Stage at Bell Station, particularly in view of the fact that the original certificate established under

Decision No. 7648 did not specifically mention Bell Station as an intermediate point. Applicant Pickwick Stages, N. D. contended that at the time that such certificate was granted, namely, May 27, 1920, Bell Station did not exist and accordingly would not be named in the tariff, but that when a store and filling station was established at such point they quoted a rate thereto so that passengers originating at or destined to Bell Station would not be required to pay the established fare to the next more distant point, which would have been the case under its tariff provision if no individual rate was quoted to Bell Station. It does not appear logical or reasonable to require a stage company holding a certificate between two points, which specifically states "and intermediate points", to require a passenger to pay the full fare between quoted tariff points when business has developed to a new intermediate point to which a rate is not quoted, to such an extent that it would warrant such stage line in adding the new point to its tariff, that is, provided that the certificate in itself contains no restrictions as to such specific territory.

It appearing that the granting of application No. 10488 will be in the interest of the public service, an order will be entered accordingly.

ORDER

Public hearings having been held in the above entitled applications, evidence and exhibits submitted, briefs having been filed and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by Joseph Miller of automotive stage service as a common carrier of passengers and express between Fresno, Mendota, Firebaugh, Oxalis, Dos Palos, Los Banos, Volta, Gustine,

Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy and Merced via Los Banos and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted, subject to the conditions as hereinafter set forth.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FURTHER DECLARES that public convenience and necessity require the operation by Joseph Miller of an automotive stage line between Visalia, Plaza, Cross Creek, Hanford, Armona, Lemoore, Lucerne, Loyalton, Wildflower, Fowler and Fresno, but not locally between Fresno and Fowler, inclusive, for the common carriage of passengers and express matter, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted subject to conditions as hereinafter set forth.

1. Express matter to be carried under the certificate herein granted is limited to shipments not to exceed seventh-five (75) pounds each in weight.

2. Certificates hereinabove granted are in lieu of and not in addition to the existing certificates held by Joseph Miller between points hereinabove mentioned.

3. Applicant shall file within a period of not to exceed ten (10) days from date hereof his written acceptance of the certificates herein granted, which written acceptance shall set forth that he accepts such certificates in lieu of and not in addition to all existing operative rights at the present time held by him; and shall file in duplicate tariff of rates and time schedules set forth in the exhibit attached to his application herein insofar as such exhibit quotes rates and time schedules of service between points authorized to be served in the certificates herein granted; service to commence within a period of not to exceed thirty (30) days from date hereof.

IT IS HEREBY FURTHER ORDERED that in all other

respects Application No. 9889 be and the same hereby is denied.

IT IS HEREBY FURTHER ORDERED that Application No. 10311 be and the same hereby is dismissed.

IT IS HEREBY FURTHER ORDERED that Application No. 10488 be and the same hereby is granted, subject to the following conditions:

Applicants shall file tariff of rates as set forth in Exhibit A attached to the application herein within a period of not to exceed fifteen (15) days from date hereof, said rates to become effective within a period of not to exceed thirty days from date hereof.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date thereof.

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 27th day of December, 1924.

C. Seamy

Livingston Martin
Egerton Shore

J. D. Whittley
Commissioners