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Decision No. 14881.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
VALLEY TRANSIT COMPANY
for a certificate of public conven-
ience and necessity to continue to
operate the various stage lines men-
tioned herein on a through route and
joint fare based on combinations of
locals over junction points.

ORIGINAL

Application No. 10279

In the Matter of the Application of
VALLEY TRANSIT COMPANY,
a corporation, to lease to Califor-
nia Transit Company, a corporation,
its operative rights and equipment.

Application No. 10687

Earl A. Bagby, for Valley Transit Company
and
California Transit Company.

E. T. Lucey, for The Atchison, Topeka and
Santa Fe Railway Company, protestant.

BY THE COMMISSION:

OPINION

In Application No. 10279, Valley Transit Company asks
for a certificate of public convenience and necessity authorizing
it to consolidate its operative rights and to continue giving through
service over all its various stage lines under joint fares based on
a combination of locals.

In Application No. 10687, as amended, Valley Transit Com-
pany asks permission to lease and sell to California Transit Com-

pany all of its operative rights and properties, subject to the terms and conditions of a lease and conditional contract of sale dated February 16, 1925, a copy of which is filed in said proceeding as applicant's "Exhibit A".

California Transit Company asks permission to unify
Transit

"said rights with those of the California/~~Transit~~ Company, thereby uniting all of the operative rights of the California Transit Company and Valley Transit Company into one complete system of operation with authority to sell through tickets and establish such through service between points served by the California Transit Company and points served by the Valley Transit Company as may seem to the best interests of the public service."

Public hearings in these matters were held before Examiner Satterwhite in Fresno on the 17th and 18th of February, 1925. The two applications were consolidated for the purpose of receiving evidence and for decision, were duly submitted and are now ready for decision.

Applicants report that California Transit Company is engaged in the operation of automobile stage lines as a common carrier of passengers and express over the following routes:-

Sacramento-Stockton-Merced, Oakland-Merced, Oakland-Stockton, Stockton-Sacramento, Stockton-San Jose, all of which rights were originally acquired prior to May 1, 1917; and also

Oakland-Vallejo, Oakland-Napa, Vallejo-Sacramento, Oakland-Rodeo-Martinez and San Francisco-Oakland for passengers south of Livermore and intermediate points on said routes.

and that Valley Transit Company operates as a common carrier of passengers and express over the following routes:-

Fresno-Madera, Fresno-Merced, Fresno-Bakersfield via Tulare, Fresno-Bakersfield via Visalia, Visalia-Bakersfield via Exeter-Lindsay-Porterville, Fresno-Porterville with intermediate stations of Malaga-Fowler-Selma-Kingsburg-Traver-Goshen-Visalia-Farmersville-Exeter-Lindsay and Strathmore, Fresno-Kingsburg(2) Fresno-Dinuba, Dinuba-Visalia, Visalia-Tulare, Tulare-Lindsay-Porterville.

In a general way, California Transit Company is operating between Sacramento, San Francisco and Oakland and other points south to Merced, and Valley Transit Company is operating from Merced to

points south, as shown in the preceding paragraph. On May 22, 1924 the two companies issued their Joint Passenger Tariff, effective June 24, 1924, publishing one way and round trip passenger fares between points on the routes of one company to points on the routes of the other. On December 17, 1924 the companies executed car leasing agreements, by the terms of which one company leased to the other such of its equipment as might be at the terminal connecting with the lines of the other company, the rental under such leases being computed at the rate of ten cents per car mile operated over the lines of the lessee. Two leases were executed, one from California Transit Company to Valley Transit Company, and the other from Valley Transit Company to California Transit Company.

First, giving consideration to Application No. 10279, it seems that we are asked by Valley Transit Company to make an order consolidating, under one blanket certificate, a number of certificates that had been acquired by it from time to time over a period of years. In this connection reference is made to our Decision No. 9892, dated December 20, 1921, (Vol. 20, Opinions and Orders of the Railroad Commission of California, page 1038) in which it was held that operative rights under certificates separately granted cannot be lawfully combined for the establishment of a through service unless a certificate of public convenience and necessity authorizing such through service is first obtained. The Commission recognized, however, that the existing operations of many companies would be affected by such a decision and indicated that it would allow a reasonable time within which applications might be filed for certificates to place all operations on a basis consistent with its conclusions.

Valley Transit Company reports that continuously since acquiring the operative rights of the various routes, to which refer-

ence is hereinabove made, it has maintained through service over such routes, selling through tickets based on a combination of locals. The application it has now filed indicates that its request for a blanket certificate is made pursuant to the requirements of Decision No. 9892, although it clearly appears that a number of the operative rights it owns were acquired subsequent to the time the Commission made the order, and some of them under decisions which recited that through service should not be given, unless subsequently permitted by the Commission by formal order.

It seems that this is a case where a company has extended its operations in excess of the rights granted by the Commission and now comes before the Commission asking for an order approving or ratifying such operations. In support of its request it alleges in the application that its through service has become a recognized fact to its patrons, that should it be compelled to discontinue its through service, there would result confusion in the sale of tickets and inconvenience to the public and that the granting of the blanket certificate as applied for, will not change its mode of operation. We do not believe that these statements by themselves constitute a sufficient showing upon which the Commission can base an order granting the application. The issue presented in this application is whether or not present and future public convenience and necessity require the operation by Valley Transit Company of through service over all its routes as a unified system. After giving careful consideration to the evidence introduced at the hearing, however, we are of the opinion that it has been clearly shown that public convenience and necessity are better served if the various routes are consolidated instead of separated and that it is not contrary to the interests of public policy to grant the application. Had the company been unable to make such a showing the Commission would not necessarily be bound to grant the application merely because through service had been given by the company in the past.

Valley Transit Company was organized on or about April 5, 1920, subsequent to the effective date of the Auto Stage and Truck Transportation Act. The operative rights it owns and which it now proposes to bring under one blanket certificate were acquired by it pursuant to authority granted by the Commission as follows:-

<u>Decision</u>	<u>Application</u>	<u>From Whom Acquired</u>	<u>Description of Route</u>
8869	6433	J.C.Walling	Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Belle, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlana, Lerdo and Saco.
9507	7067-8	J.C.Walling and C.H.Alexander; J.C.Walling, C.H.Alexander and Carl Allen.	Between Fresno and Madera; Fresno and Hanford; Fresno and Bakersfield via Tulare; Fresno and Kingsburg; and Madera and Merced.
10227	7609	A.A.Crabb, E.C.Morgan and E.Crabb.	Fresno and Kingsburg.
10508	7853	R.O.Hagan	Fresno and Selma
12437	9251	A.C.McVey	Fresno and Dinuba via Fowler, Selma, Parlier, and Roodley.
13692	9849	Joseph Miller	Visalia and Dinuba, via Yettem, Cutler, Croft and Sultana; Tulare and Porterville via Lindsay and Strathmore; Tulare and Visalia via Mooney Grove.

By Decision No. 13692 the Commission also authorized Valley Transit Company to sell and transfer the right to operate between Fresno and Hanford, which previously had been acquired pursuant to Decision No. 9507.

On the routes acquired from A. C.McVey pursuant to Decision No. 12437 it appears that there are certain restrictions with respect to the transportation of passengers locally between Fresno, Fowler and Selma, and Selma and Parlier, and also with respect to

the transportation of express, it being limited to packages of fifty pounds or less.

However, under the rights acquired pursuant to Decision No. 8869 and Decision No. 10508, Valley Transit Company may operate stages for the transportation of passengers locally, and of express without the fifty pound restriction, between Fresno, Fowler and Selma, so that at present it is restricted in carrying local passengers only between Selma and Parlier. Moreover, in making the present order permitting the consolidation of the company's routes, we believe the restriction on the transportation of express over the Fresno-Dinuba route should be eliminated for the purposes of uniformity.

Coming now to Application No. 10687, it appears that it is the desire of California Transit Company to acquire the unified operative rights of Valley Transit Company and to consolidate them with those it now owns, forming one complete system and enabling it to sell tickets and transport passengers, so far as possible, from any point on one line to destination on the other without the inconvenience of changing cars.

It alleges that there is an insistent public demand for the through service proposed; that passengers must now change cars at Merced in traveling between points north and south thereof, except for the car leasing agreements, referred to above, which, however, are now said to be cumbersome and impracticable in operation; that the consolidation of the two lines would permit the placing at the disposal of the public of a number of limited stages of the latest improved type; that it has available the complete plant of the California Body-building Company for the construction of the latest type of stages for the purpose of serving all lines owned or operated by it; that it is financially and physically able to operate the lines of Valley Transit Company in an adequate and efficient manner; and that the joinder of the rights of the two companies will

not in any manner curtail any present service or create any new or different service or enlarge any existing service.

However, in our opinion, the linking up of the lines of the two companies is an expansion and enlargement of the present operative rights and the creation of a new transportation service requiring a new certificate of public convenience and necessity. Applicants introduced a considerable volume of testimony to show that public convenience and necessity require the operation of through stages from points on one line to points on the other. In Exhibits "6" and "7" they report that during the months of July, August and December, 1924, which are said to be typical months, 5801 passengers were carried over the lines of the two companies from points on the California Transit Company's system to points on the Valley Transit Company's system, and 6480 passengers from the Valley Transit Company to the California Transit Company. It is alleged, and the exhibits indicate, that the demand for service from the routes of one company to those of the other is not localized, but extends to all points.

In this connection, a number of witnesses, some of whom were ticket agents and representatives of the carriers, and others, representatives of municipalities, private industries and public organizations along the lines of applicants, testified as to the requests from passengers for through service and as to the complaints and inconvenience caused by the changing of cars.

California Transit Company on April 13, 1925, filed with the Railroad Commission an application, No. 11005, for a certificate of public convenience and necessity to consolidate its operative rights and establish certain through service over separate operative rights. Said Application No. 11005 is now pending before the Commission. In view of the request contained in Appli-

cation No. 11005, and in further view of the fact that the testimony in the two proceedings referred to herein, does not show the necessity for consolidating all of the operative rights of California Transit Company, we believe that such company should not in this decision be authorized to consolidate all of its existing operative rights, and that the order herein should be limited to the consolidation of the operative rights of Valley Transit Company, the lease and sale of such rights to California Transit Company, and the establishment of a through service over the operative rights of Valley Transit Company and those of California Transit Company extending from Sacramento to Stockton, Stockton to Modesto, Modesto to Merced and from San Francisco and Oakland to Merced.

To effect the consolidation referred to herein, applicants plan to execute a lease and conditional contract of sale. A copy of this agreement, dated February 16, 1925, has been filed with the Commission and appears to cover all the operative rights and operative properties of Valley Transit Company. Under its terms, California Transit Company, the lessee and purchaser, agrees, among other things,

1. To maintain and keep the leased equipment in the same state of repair as it now is, reasonable damage from ordinary wear and tear excepted, but including wear to tires and mechanical wear that in the ordinary course of business may be reasonably subject to immediate repair or adjustment;
2. To pay all operating expenses incurred by it during the terms of the lease, including driver's wages, gasoline, oil, tires, repair, rental of depots, commissions on ticket sales, licenses, insurance premiums, storage, baggage losses and liabilities, and claims for all damages or losses when adjudged recoverable.
3. To pay all state and county taxes.
4. To pay all costs, attorney's fees and expenses in connection with the agreement; and
5. To buy the operative rights and equipment leased for \$430,000.00 payable in forty-three monthly installments of \$10,000.00 each with interest, computed and payable monthly, at the rate of six percent per annum on all deferred payments.

The rental to be paid will be the payments of principal and interest and such payments shall be the full compensation to be received by Valley Transit Company, both as rental and purchase price. Upon receiving the principal amount with interest, Valley Transit Company agrees to execute instruments of transfer to California Transit Company covering the properties leased.

It appears from the testimony herein that the proposed rental is based more on the revenues of Valley Transit Company, rather than on the value of the properties. As shown in the preceding paragraph, the annual rental will amount to \$120,000.00, plus interest. It becomes necessary, then, for us to examine the operating revenues and expenses of Valley Transit Company, as shown in that company's reports to the Commission, in order to form some conclusion as to whether the operation of the properties of that company will yield the rental required to be paid for such properties under the terms of the agreement.

For the years ending December 31st, Valley Transit Company has reported its operating revenues and expenses as follows:-

<u>ITEM</u>	<u>1924</u>	<u>1923</u>	<u>1922</u>
Operating revenues:			
Passenger revenues	\$389,470.22	\$436,179.64	\$402,390.30
Express revenues	15,801.48	11,743.72	6,959.65
Station and other privileges	3,763.16	--	--
Storage	51.15	109.85	200.45
Rents	2,954.95	3,590.07	3,769.43
Other	--	698.95	4,360.57
Total operating revenues	<u>\$412,040.96</u>	<u>\$452,322.23</u>	<u>\$417,680.40</u>
Operating expenses:			
Conducting transportation	\$142,283.54	\$135,087.72	\$134,541.56
Maintenance	87,283.23	95,639.89	118,933.46
Traffic	5,005.18	11,351.54	7,242.29
General and miscellaneous	86,639.57	63,783.27	53,588.28
Total operating expenses	<u>\$321,211.52</u>	<u>\$305,862.42</u>	<u>\$314,305.59</u>
Net operating revenues	<u>\$ 90,829.44</u>	<u>\$146,459.81</u>	<u>\$103,374.81</u>

The foregoing tabulation would seem to indicate that during the last three years the properties of Valley Transit Company have earned the amount now to be paid as rent for such properties in only one year, 1923. However, the testimony herein shows, and common knowledge bears out the testimony, that during 1924, travel was curtailed, due to the hoof and mouth disease, drouth conditions, lower farm production and unemployment. In this connection, John C. Walling, vice-president and general manager of Valley Transit Company, testified that in his opinion operating results during 1924 were considerably lowered, due to these conditions, but that in 1925 the net revenues should exceed those of not only 1924, but also 1923. It is of record that earnings during 1925, up to the time of the hearing, were in excess of those for the similar period during 1923.

W. E. Travis, president and general manager of California Transit Company, and president of Valley Transit Company, testified that in his opinion the earnings from the properties to be leased would be sufficient to take care of all the obligations under the agreement between the two carriers, and that it would not be necessary for California Transit Company to draw on the earnings from its present lines to meet such obligations. He apparently bases this conclusion on the past operations of Valley Transit Company, the estimated increase in revenues as a result of consolidation and use of improved type of stages, and the estimated savings in operating expenses. It appears that \$25,000.00 will be saved annually in officers' salaries and it is estimated that an additional \$10,000.00 will be saved in the auditing, ticket-selling and mechanical departments as a result of the consolidation, making a total estimated annual saving of \$35,000.00 in the operating expenses of the Valley Transit Company lines. Had a saving of \$35,000.00 annually been effected in the expenses of the company during the three years under review, the net revenues would have

approximated \$125,000.00 in 1924, \$181,000.00 in 1923, and \$138,000.00 in 1922.

The properties to be thus acquired by lease and purchase by California Transit Company include, in addition to the operative rights, twenty-two White stages of 14- and 18-passenger capacity, three Cadillacs of 18-, 22- and 26-passenger capacity, eight Fageols of 18- and 26-passenger capacity, two Garfords of 18-passenger capacity, together with furniture and fixtures, materials and supplies, insurance policies and leases of terminals. The record shows that it is the intention of California Transit Company, upon obtaining possession of the properties of Valley Transit Company, to gradually standardize the equipment, so far as practicable, and to use the latest improved type of stage.

E. T. Lucey, representing The Atchison, Topeka and Santa Fe Railway Company, entered an appearance in these matters, protesting the granting thereof, but presenting no evidence.

Upon the record herein we are of the opinion that the applications should be granted subject to the provisions and conditions of this opinion and order. The approval herein granted is not to be considered as a finding of value of the operative rights and properties of Valley Transit Company or as binding on the Commission at some future date to recognize the rental and purchase price as the basis for an order fixing rates or permitting the issue of stock by California Transit Company.

It is our opinion that the agreement we are herein called upon to approve is an evidence of indebtedness coming within the provisions of Section 6 of the Auto Stage and Truck Transportation Act.

O R D E R

Applications having been filed with the Railroad Commission, as indicated in the opinion which precedes this order, public hearings having been held, the matters having been duly submitted and

the Commission now being fully advised and basing its order on the statements set forth in the opinion:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the consolidation and unification of the operative rights of Valley Transit Company, a corporation, and the operation, as one unified system, of through service for the transportation of passengers and express between all the terminal and intermediate points, excepting local passenger service between Selma and Parlier, served by and along its present several routes, which routes are as follows:-

1. Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshon, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducer, Richgrove, Delano, McFarland, Famosa, Kimberlona, Lerdo and Seco, operated pursuant to authority granted by Decision No. 8869, dated April 16, 1921 in Application No. 6433.
2. Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg, operated pursuant to authority granted by Decision No. 9507, dated September 14, 1921, in Applications No. 7067 and No. 7068, as modified by Decision No. 13692, dated June 12, 1924 in Application No. 9849;
3. Between Fresno and Kingsburg, operated pursuant to authority granted by Decision No. 10227, dated March 27, 1922 in Application No. 7609;
4. Between Fresno and Selma, operated pursuant to authority granted by Decision No. 10508, dated May 26, 1922 in Application No. 7853;
5. Between Fresno and Dinuba, via Fowler, Selma, Parlier, and Reedley, operated pursuant to authority granted by Decision No. 12437, dated August 2, 1923 in Application No. 9251; and
6. Between Visalia and Dinuba via Yettam, Cutler, Orozi, and Sultana; Tulare and Porterville via Lindsay and Strathmore; Tulare and Visalia via Mooney Grove, operated pursuant to authority granted by Decision No. 13692, dated June 12, 1924 in Application No. 9849.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and the same hereby is granted to Valley Transit Company, a corporation, to enable it to render through service under the aforesaid consolidated operative rights.

IT IS HEREBY ORDERED that Valley Transit Company and California Transit Company be, and they hereby are authorized to execute the lease and conditional contract of sale referred to in the foregoing opinion, and Valley Transit Company be and it hereby is authorized to lease and sell its operative rights and properties to California Transit Company in accordance with the terms of such lease and conditional contract of sale.

THE RAILROAD COMMISSION FURTHER DECLARES that public convenience and necessity require the consolidation and unification of the operative rights herein granted to Valley Transit Company and hereby authorized to be leased and sold to California Transit Company and the operative rights heretofore granted California Transit Company authorizing the operation of automobile stages between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced, and San Francisco, Oakland and Merced, which were granted by Decisions No. 8150 and No. 8231 in Application No. 5163 and by Decision No. 11566, in Application No. 7982, such operations to include transportation of passengers and express between all of the termini and intermediate points served by and along such routes, except that no passengers or express may be transported between San Francisco and Oakland unless such passengers and express originate at, or are destined to, Livermore or points south thereof.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity be and it is hereby granted to California Transit Company, a corporation, to consolidate the operative rights to which reference is made in the paragraph immediately preceding.

The authority herein granted is subject to the following conditions:-

1. The authority herein granted to execute a lease and conditional contract of sale is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction, and is not intended as an approval of said lease and conditional contract of sale as to such other legal requirements to which said lease and conditional contract of sale may be subject.
2. The rental and purchase price to be paid by California Transit Company in accordance with the terms of the lease and conditional contract of sale is not to be urged before this Commission or any other tribunal of competent jurisdiction as a measure of value of the rights and properties of Valley Transit Company for any purpose other than the transfer herein authorized.
3. The authority herein granted to lease and sell properties from Valley Transit Company to California Transit Company will not become effective until California Transit Company shall have paid the fee prescribed in Section 6 of the Auto Stage and Truck Transportation Act, and Section 57 of the Public Utilities Act, which fee is \$430.
4. Applicant shall file their written acceptance of the certificates herein granted within a period of not to exceed ten (10) days from date hereof; and shall file, in duplicate, tariff of rates, fares, rules and regulations, and time schedules within a period of not to exceed twenty (20) days from date hereof;

C.L. SEAVEY

GEORGE D. SQUIRES

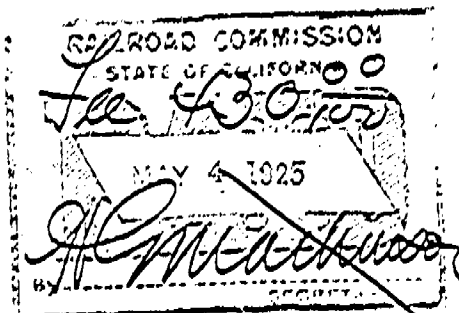
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Commissioners

such tariffs of rates and fares, rules and regulations and time schedules to be identical with those attached to the application herein; and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from the date hereof, unless the time for commencement of operation hereunder is hereafter extended by a supplemental order of this Commission.

5. The rights and privileges herein authorized may not be assigned, sold, leased, transferred or hypothecated, nor service discontinued unless the written consent of the Railroad Commission to such assignment, sale, lease, transfer, hypothecation or discontinuance of service has first been secured.
6. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to and approved by this Commission.

For all other purposes, other than hereinabove specified, the effective date of this order shall be twenty(20) days from the date hereof.

DATED at San Francisco, California, this 2nd day of May, 1925.



[Signature]
George H. Squires
[Signature]
Commissioners

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