

Decision No. 15016

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
PICKWICK STAGES, N. D., for certificate  
of public convenience and necessity to  
operate an automobile stage service as  
a common carrier of passengers and ex-  
press matter between Los Angeles and the  
California-Nevada State line north of  
Coleville, California, and intermediate  
points. ) APPLICATION NO. 8023

In the Matter of the Application of  
GEORGE W. WILKINS for a certificate of  
public convenience and necessity to  
operate a passenger and express auto-  
mobile stage service between Bishop and  
Cunningham, via Mammoth and all inter-  
mediate points. ) APPLICATION NO. 8027

ORIGINAL

Warren E. Libby, for Pickwick Stages, N. D., Applicant  
in Application No. 8023 and Protestant in Application  
No. 8027.

McDonald & Thompson, by S. W. Thompson, for George W.  
Wilkins, Applicant in Application No. 8027 and Protes-  
tant in Application No. 8023.

Owens Valley Transportation Company, Protestant in Ap-  
plication No. 8023.

Smith Auto Company, Protestant in Application No. 8023.

White Bros., Protestant in Application No. 8023.

J. T. McAllee, Protestant in Application No. 8023.

G. F. Marsh, Protestant in Application No. 8023.

H. E. Gogarty, for Southern Pacific Company, Protestant  
in Application No. 8023.

T. A. Woods, for American Railway Express, Protestant  
in Application No. 8023.

E. E. Hunkins, for Yosemite Transportation System, Pro-  
testant in Application No. 8023.

H. W. Guthrie, for Raymond F. Kamp (Application No. 9133)  
Protestant in Application No. 8023.

BY THE COMMISSION:

OPINION ON REHEARING

By Decision No. 11722 on Applications Nos. 8023 and 8027, under date of February 27, 1923, this Commission made its order denying the application of Pickwick Stages, N. D., for a certificate of public convenience and necessity to operate an automobile stage service between Los Angeles and the California-Nevada State line north of Coleville, California, and intermediate points, and granting to George W. Wilkins a certificate of public convenience and necessity to operate passenger and express automobile stage service between Bishop and Cunningham via Mammoth and intermediate points.

Whereupon applicant Pickwick Stages, N. D., filed its application for a rehearing, which petition was granted, and a rehearing on the matters involved in the applications herein was conducted by Examiner Williams at Bishop. Subsequently, on January 8, 1925, further rehearing proceedings were had herein before Examiner Williams at Los Angeles, at which time all the parties to the record stipulated that the inadvertent absence of a previous order granting a rehearing should be waived and that the record upon rehearing taken at Bishop should be received and treated as the proper record upon rehearing herein.

The scope of the petition for a rehearing was such that the applicants and protestants were permitted to enter anew upon the production of testimony on the question of convenience

and necessity of the certificate heretofore denied to applicant Pickwick Stages, N. D., and granted to applicant Wilkins. The question before us upon rehearing appears to be not only whether the decision upon the record in the first hearing was correct, but whether, even if correct, it should be materially modified or entirely changed in the light of an additional showing by applicant Pickwick Stages.

Applicant Pickwick Stages, N. D., proposes a continuous stage operation between Los Angeles and Reno, Nevada, a distance of approximately 540 highway miles. Only 100 miles of this route is over paved highway. North of Mojave, except for a short distance, there is no paved highway. Between Lone Pine and Los Angeles the only service maintained is that of the rail line of the Southern Pacific Company, operating northerly from Mojave and terminating at Owenyo, where a connection is made with the narrow-gauge railroad of the Southern Pacific, terminating at Mina, Nevada. Between Lone Pine and Bishop the public is served by the passenger and express service of the Owens Valley Transportation Company. Between Bishop and Mono Lake (Cunningham) service is maintained by George W. Wilkins, under authority of the order contained in Decision No. 11722, which certificate for said operation is now questioned. Between Mono Lake and Bridgeport a combination passenger and freight service is maintained by protestant J. T. McAlllee. Interstate service is maintained between Bridgeport and Reno by Anderson Bros., auto carriers. In view of the recent decision of the United States Supreme Court, this service may be maintained on an interstate basis

without a certificate from this Commission.

From the foregoing it appears that there now exist transportation facilities over the entire route proposed by applicant Pickwick Stages, and that if the certificate granted to applicant Wilkins herein were annulled, the only region without transportation service would be the region between Bishop and Mono Lake.

Applicant Pickwick Stages proposes to superimpose upon this entire route a new service, local in its character north of Mojave, and intended to be competitive with such other operations and facilities as now exist. Well balanced regulation must require from applicant, therefore, an emphatic and convincing showing that the public necessity is such that existing authorized facilities do not and cannot adequately meet the public requirements. It is further a burden upon applicant to show that the intrusion of the service proposed by it is constructive in the public interest, and not merely destructive of existing facilities without due advantage to the public.

Applicant Pickwick Stages sought to show by an array of witnesses that a service projected from Los Angeles to Reno, and serving incidentally local needs, was required by local necessities in the Owens Valley, and the preponderance of testimony is from witnesses in that region. It is unnecessary to go into detail as to the testimony of individual witnesses; but generally, they testified that a night train service was not of the same advantage as a day stage service; that tourists, now forced to use their own

cars, or a combination of rail and several stage lines, would prefer a continuous stage journey in the day time; that persons seeking hunting and fishing resorts in season could travel by stage during the day to the headquarters of the camping outfits in the Valley and be prepared for early morning travel with pack animals to the mountain heights; that a daily service of express matter was desirable; and that the great camping region north of Bishop and in the Mono Lake section would receive a large number of new visitors who cannot make the journey by facilities now existing. Some of these witnesses testified as to the satisfactory service now being given by the Owens Valley Transportation Company, the Wilkins line from Bishop to Mono Lake, and the stage lines that connect with the rail service. They expressed a belief that their support of applicant Pickwick Stages included with it protection of the two larger stage services in the Valley. Some, also, further testified that they use their own cars and that their use of applicant's stage service would be only occasional.

Applicant Pickwick Stages proposes a daily service between Los Angeles and Bishop, leaving each terminal at 7:00 o'clock in the morning and completing the journey at either end at 5:45 in the afternoon. Between Bishop and Reno applicant proposes one service weekly, following the main route over the Sherwin grade via Mammoth and Mono Lake and Bridgeport on the California State line, with an alternate route, to be used only when climatic conditions prevent the use of the main road, by way of Benton to the California

State line between Pallissier, California, and Queen, Nevada. The alternate route parallels to a large extent the route of the Southern Pacific narrow-gauge line between Owenyo and Mina.

Applicant Pickwick proposes to use 11-passenger stage equipment, with an express compartment on each car  $4\frac{1}{2}$  feet wide,  $3\frac{1}{2}$  feet long, and deep enough to hold an ordinary suitcase or steamer trunk. Applicant proposes to limit any express carried to 250 pounds in weight and to carry express only upon its passenger vehicles. The schedule proposed by applicant contemplates a through trip from Los Angeles to Bishop on a 11-hour basis for a distance of 288 miles. The rates to be charged may be measured by the rate from terminal to terminal, which is \$11.90 one way. Express rates proposed, as shown by comparison with those charged by the American Railway Express, are slightly higher beyond Little Lake than the rates of the rail carrier.

Stress is laid upon the fact that the through service proposed by applicant will permit a passenger to reach Carson or Reno, Nevada, by two days' travel, a stop over night being made at Bishop. The schedule of the Southern Pacific between Los Angeles and Reno requires a journey beginning at Los Angeles at 11:30 p. m., with a change of cars at Mojave at 3:24 and at Owenyo at 9:20 the following morning, another change at Laws at 12:40 p. m., reaching Mina, Nevada, the same evening at 7:00 o'clock. The journey from Mina is continued at 11:50 a. m. the following day, reaching Reno at 9:45 p. m. Carson is reached the following morning at 9:25 by a journey from Reno - the morning of the third day after

leaving Los Angeles. It is also stressed that applicant's proposed service north of Bishop is at points 80 miles distant from rail service and traverses regions now without rail service or adequate stage service. Applicant also stresses the fact that the combination of facilities now existing is unattractive to travellers and is used only because a more adequate or more efficient service is not available.

Inquiry into the means of transportation now existing shows that a passenger desiring to reach Bishop or intermediate points may travel via the Southern Pacific railroad with only one change of cars, this change being at Mojave between 3:00 and 4:00 o'clock in the morning. However, daily sleeper service six days a week is maintained in both directions between Owenyo and Los Angeles, and by the use of the sleeper the discomfort of changing cars may be avoided. In any event, the passenger does not reach Laws (the railroad station four miles from Bishop) until 12:10 p. m. Also, between Los Angeles and Mojave there exists the stage service of the Packard Stage Line, operating between Los Angeles and Bakersfield via Mojave. At the original hearing this carrier was a protestant, but since that time it has been acquired by applicant Pickwick Stages and therefore did not appear as a protestant at the rehearing. Between Mojave and Lone Pine the only carrier is the Southern Pacific railroad and its service to Lone Pine is at Owenyo station, two miles east of the community. Between Mojave and Lone Pine, a distance of 136 miles, the population is divided into a few communities having a total population of several hundred. Be-

tween Lone Pine and Bishop, a distance of 52 miles, stage service has been maintained for several years by the Owens Valley Transportation Company. Exhibits filed by this protestant showed that 80 per cent of its traffic is business originating at or destined to points beyond its terminal, the bulk of its business being to and from the Southern Pacific station at Owenyo (Lone Pine). At only one point on the route proposed by applicant does the Southern Pacific railroad serve the community direct, and this is at Little Lake. At other points the railroad is from two to five miles distant from the communities, and at Independence and Bishop stage lines duly authorized by this Commission are operated between the communities and the railroad stations.

North of Bishop the only service maintained is by applicant Wilkins, in season, to Mono Lake, and by protestant California-Nevada Stage between Bishop and Tonopah via Benton. Beyond Mono Lake the mountain service for mail, freight and passengers of protestant McAllee is maintained to Bridgeport.

From this description it is apparent that a passenger desiring to reach Bishop or any point between Mojave and Bishop may do so by a combination of rail service and automobile stage service; that in season a passenger may go north of Bishop either by the Mammoth road or by the Benton-Mina road, by stage. Analysis of the record shows that the service of the auto stage lines and the railroad between Lone Pine and Bishop is fairly well co-ordinated, and that the seasonal operation of applicant Wilkins between Bishop and Lone Pine is co-ordinated with the service of the Owens Valley



Transportation Company. Beyond Mono Lake, however, there seems to be little attempt to co-ordinate the services, because of the long periods - sometimes six months - when operations cannot be conducted on any sort of schedule, and often not at all, due to the great altitude of the roads and to snow conditions.

We are not impressed by any facts in the record that applicant Pickwick would be in any better position to conduct operation through the high mountain districts, over long distances, than those now conducting service, except, perhaps, in the most favorable seasons. We are, however, impressed by the fact that the rail operation between Bishop (Laws) and Nevada points is every other day and continuous throughout the year. In addition, Protestant Southern Pacific Company maintains rail passenger and express service between Los Angeles and Reno, via Sacramento, on an 18-hour schedule between termini.

The operation proposed by applicant traverses a desert country, sparsely settled and inviting only to mining men, hunters and vacationists. Agriculturally, as shown by the record upon rehearing, there has been a decrease in the volume of production, and there has also been a decrease in population. While applicant stipulated that the population might be considered the census of 1920, the record shows that in 1922 there were 3322 voters in Inyo County, while in 1924 the registers showed a decrease of 544 in the number. The census of 1920 gave Inyo County a population of 7,031 and Mono County a population of 960. Inyo County contains 10,244 square miles and Mono County 2,796.

During the agricultural development of the north end

of the Owens Valley adjacent to Bishop, Big Pine, Independence and Lone Pine, the Southern Pacific Railroad has borne the burden of transportation to and from the agricultural regions, as well as to and from the mining regions. Its passenger service has been maintained, according to the record, without profit, and its maintenance of sleeping car accommodations is a concession to the population and is not expected to prove remunerative. The passenger service maintained by this protestant sustains in a large measure all the automobile operation now conducted from Lone Pine north to Mono Lake, and we are satisfied from a study of the record and the exhibits herein that the addition of a through carrier as proposed by applicant Pickwick would endanger the continuance of rail passenger service, and that, should it fall, all the other transportation services would be unable to subsist. Further, we are convinced from a study of the record that the establishment of any through service must contemplate the serious impairment of all other forms of service now established. We do not believe that such derangement of existing conditions, for the convenience of those who might infrequently prefer a through journey in the day time, is justified. We are, however, impressed with the fact that the opportunity for the thousands of tourists who wish to view the magnificent scenery on the east side of the Sierra Madre range is an asset to the territory through which applicant proposes daylight stage service. We think it is true, according to the record in the present proceeding, that 90 per cent of the tourists, particularly from Southern California, who make this journey use their own vehicles, and that possibly the same percentage would continue

to do so if through stage service were established. There is testimony in the record that applicant Pickwick has sought to build up support for the proposed service, on the theory that it would attract tourists and visitors to the region and that applicant would aid in attracting them by advertising propaganda. Some of the witnesses regarded this as an important feature. Such a sightseeing service, properly conducted, might be of advantage to persons engaged in maintaining recreation camps and packing outfits into the mountains, and might also be of some benefit to hunters, campers and hikers; but such service would be limited to not exceeding four months of the year and the advantage to be gained for this period for a comparatively small number of persons would not, in our opinion, justify the endangering of existing transportation facilities and the needs of the public thereby served, by a new all-year competitive operation.

In this proceeding we have had the affirmative testimony of fifty-one witnesses produced by applicant, many of whom based the necessity for service upon their own personal needs or upon their opinion of the needs of communities. These included several witnesses from Los Angeles seeking the Owens Valley resorts either on business or on pleasure; a few witnesses from Bridgeport seeking access to the Owens Valley; several owners of camps or resorts seeking additional means of transportation for guests; and many residents of the Owens Valley seeking additional transportation either to points in the valley, particularly between Lone

Pine and Mojave, or to Los Angeles. The testimony as to any demand for additional transportation service between Nevada points and the Owens Valley was rather meager. On the other hand, protestants introduced thirty-four witnesses of the same classes as those produced by applicant, who expressed belief that present facilities are adequate and cannot be disturbed by an additional service without endangering the continuance of rail service, which they regard as of prime importance to Owens Valley interests, both socially and industrially.

From the testimony of all these witnesses, we are of the opinion that the establishment of a new through service between Los Angeles and Bishop must carry with it the destruction of some, if not all, of the existing rail and stage services, or at least an unnecessary impairment of their ability to continue functioning, as we cannot find from the record that the statistics either of population or of travel take such carriers out of the pioneering stage. In addition, we are not unmindful of the fact that the operation proposed by applicant herein, competitive in its nature, as it is, with existing lines, cannot be profitable until after a considerable period of operation, and that it may become profitable only after the existing authorized carriers have been forced to retire from the field. We have not in this record any showing by applicant that it is able or well prepared to stand a long period of financial losses while maintaining the operation proposed, and we are cognizant of the geographical and population statistics of the route to be traversed to the extent that confidence in any great growth,

industrial or otherwise, does not seem justified.

After full consideration of all the record herein we are of the opinion that the order heretofore made in Decision No. 11722 upon Applications Nos. 8023 and 8027 herein should stand as originally made, without any modification, and an order will be entered accordingly.

#### ORDER ON PETITION FOR REHEARING

A public hearing having been held in the above entitled proceeding, evidence having been received, the matter having been duly submitted and the Commission being now fully advised,

IT IS HEREBY ORDERED that the order heretofore made in Decision No. 11722 on Applications Nos. 8023 and 8027 herein be and the same is hereby ratified and confirmed without modification.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 14  
day of June 1925.

W. A. Brundage

Cl. Seaver

George W. Squires

COMMISSIONERS.