

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
 YOSEMITE PARK AND CURRY CO., a corporation,
 operating the Yosemite Transit System, for
 a certificate of public convenience and
 necessity to operate motor stage passenger,
 baggage and express service between Merced,
 Merced County, California, and El Portal,
 Mariposa County, California, and intermediate
 points, as an extension of its existing
 motor stage service between Mariposa, Mariposa
 County, and Briceburg, Mariposa County, and
 between El Portal, Mariposa County, and the
 boundary of Yosemite National Park.

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) Application
) No.12800
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In the Matter of the Application of
 YOSEMITE VALLEY RAILROAD COMPANY, a corporation,
 for a certificate of public convenience and
 necessity to operate motor stage passenger and
 baggage service between Merced, Merced County,
 California, and El Portal, Mariposa County,
 California, and intermediate points.

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) Application
) No.13039
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Brobeck, Phleger & Harrison, by Herman Phleger, for
 Yosemite Park and Curry Co., Applicant in
 Application No.12800, and Protestant in Application
 No.13039.

Mc Cutcheon, Olney, Mannon & Greene, by Allan P. Matthew
 and John O. Moran, for Yosemite Valley Railroad Company,
 Applicant in Application No.13039, and Protestant in
 Application No.12800.

Earl A. Bagby, for California Transit Company, in favor
 of Application No.12800, and Protestant in Application
 No.13039.

Edward Stern and J. W. Rogers for American Railway Express
 Company.

Clarence M. Oddie, for American Short Line Railroad
 Association.

BY THE COMMISSION -

OPINION AND ORDER ON REHEARING

On November 9, 1926, the Commission by its Decision No.17584
 made its order granting certificates of public convenience and
 necessity to applicants Yosemite Park and Curry Co., and Yosemite
 Valley Railroad Company for the operation of automobile stage
 lines as common carriers of passengers and baggage between
 Merced and El Portal, via Mariposa and Briceburg.

On November 13, 1926, applicant Yosemite Valley Railroad Company filed herein its petition for rehearing and reargument, and the Commission on November 16, 1926, made its order granting rehearing.

The rehearing on these proceedings was hold before the Commission en banc on November 24, 1926, at which time the matter was fully presented by argument of counsel, the matter was duly submitted and is now ready for decision.

We have carefully reviewed the record in this proceeding and have considered the arguments presented at the rehearing. We are of the opinion and hereby conclude that the opinion and order heretofore made in this proceeding gave full consideration to all matters to which the attention of the Commission has been directed upon rehearing and that the order heretofore made should be affirmed.

Now, therefore, good cause appearing and the Commission being fully advised,

IT IS HEREBY ORDERED that the order heretofore granted by the Railroad Commission in its Decision No.17584 on Applications Nos.12800 and 13039, as decided November 9, 1926, be and the same hereby is affirmed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of DEcember, 1926.

H. B. Brundage

A. L. Seaver

Leon Whitwell

Mark B. Barrett
COMMISSIONERS.

DISSENTING OPINION.

I cannot concur in the majority opinion of the Commission, which denies to the Yosemite Valley Railroad a rehearing in this matter.

The Yosemite Valley Railroad Company operates one of the "short line" railroads in California. The history of the short line railroads in California, over the past fifteen years, has shown conclusively that they are unable to compete with automobile and truck transportation, most of them having had extreme difficulty in maintaining any service upon their lines. The plight of the short line railroad became such that the people of this state adopted a measure designed to lessen their taxation so as to enable them to survive, if possible, the auto and truck competition.

Here we have the example of a short line railroad that has been enabled to weather the storm on account of the fact that there was no road over which the automobile and truck could compete with it. That situation has been changed and there now has been constructed a highway practically paralleling its line, which opens it up to the same competition that has, in the past, all but ruined most short line railroads. A stage company now seeks to enter the field, which was formerly exclusively served by the railroad company. This short line railroad profiting by the disastrous failure of the other short line roads to install and operate stages has applied to this Commission for a certificate to operate a stage line over the new highway. Under the decision as written permission has been granted to the Yosemite Park and Curry Company to operate stages over the new highway as well as to the short line railroad.

If the converse of this situation were present and a highway

had been built with a very slight grade, paralleling either the Wawona Road or the Big Oak Flat Road of the Yosemite Park and Curry Company and the Yosemite Valley Railroad Company had made application to operate a stage line over this hypothetical route, there is no question that under the previous decisions of the Commission that permission would be denied them and the certificate for operation over this hypothetical new route would be granted to the Yosemite Park and Curry Company.

The Yosemite Park and Curry Company operates the scenic routes by way of Wawona, Big Oak Flat and Tioga. The people, who travel by stage over these routes, do so because these are the scenic routes and the trip rightly appeals to the individual as one of beauty. On account of the unusual beauty of these routes, the Yosemite Park and Curry Company will not lose passengers from these old established routes of travel by reason of the opening of the new road.

The sole company to lose traffic to the new automobile route, if established, will be the railroad company and they should be given every opportunity by this Commission to retain the business that they now have. This Commission should not depart from its well established practice of permitting those, who have dedicated their property to certain territory to serve that territory fully.

The effect of the order of the Commission, as it now stands, will be to handicap the railroad in its operation of stages. Under the present order of this Commission, the Yosemite Park and Curry Company can now operate through stages from Merced into the heart of Yosemite Valley, while the Railroad will be able only to operate stages from Merced to El Portal. Passengers over the railroad stage line must then await whatever service the Yosemite Park and Curry Company chooses to give from El Portal into the Valley. Over this service this Commission has no jurisdiction.

The practical effect of these two methods of operation will be, that once the traveling public becomes acquainted with the fact that it can go from Merced into the heart of the Valley without change, it will patronize the stages of the Yosemite Park and Curry Company almost exclusively. The final result of this operation will be that this Commission will have admitted into the exclusive territory now served by the railroad company a stage line, which will ultimately drive the railroad out of the stage business and take from it a very large portion of its passenger traffic. This will seriously decrease the passenger revenue of the railroad.

It is not difficult to foresee the next step, which also will cut into the earnings of this short line railroad company. That step will be the filing of an application by some trucking company, probably the Yosemite Park and Curry Company, to carry freight into the Valley over this new highway by truck and if the Commission follows, in that application, the line of reasoning that it has followed in the present application, it will grant the application and there will soon be a line of trucks paralleling the short line railroad and competing for its freight traffic. These trucks will also have the same advantage that the Park Company stages will have in transporting freight into the heart of the Valley without change.

The railroad will suffer an added loss of passengers through the increase in the number of people who will abandon the trip by rail to drive into the valley in their own automobiles. The automobile routes open to the public by way of Wawona, Big Oak Flat and Tioga have not been such as would appeal to any other than the experienced driver. The new route

being practically without grade can be driven easily by any one. This condition will cause many who in the past have used the railroad to cease to travel by rail and to make the trip in their own automobiles.

It does not take very great discernment to look a few years into the future and see the Yosemite Valley Railroad Company in the same situation, in which we now find most all the California short line railroads. I can see no wisdom in permitting the Yosemite Park and Curry Company seriously to impair the value of the railroad property and its power to return a proper earning to its stockholders. These stockholders have certain rights, which should not be lightly sacrificed by the Commission.

I believe that there are three solutions to this matter:

1. That no certificate for either stage lines or truck lines be granted over the new road into the Yosemite Valley and that it be kept exclusively for the use of those who drive their own machines.

2. That the certificate be granted to the short line railroad alone and that it be compelled to give adequate service into the Valley with interchange of traffic with the San Joaquin Valley stage companies.

3. That the applications of both the Yosemite Park and Curry Company and the Yosemite Valley Railroad Company be dismissed with instructions to the Yosemite Park and Curry Company and to the Yosemite Valley Railroad Company to form a new company, in which each will have a half interest and that the new company make application for this certificate to the Commission. That in the new application, the stages be operated from Merced into the heart of the Yosemite Valley and not to El Portal only. That the application should also set forth the fact that traffic would be interchanged with the existing stage companies operating North and South in the San Joaquin Valley.

Frank Deeds

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Commissioner.