

ORIGINAL

Decision No. 18061

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of CALISTOGA & CLEAR LAKE STAGE CO., a corporation, for a certificate of public convenience and necessity for the operation of a motor stage line as a common carrier of passengers, baggage and express between Sacramento and Middletown and intermediate points, such service to be a part of the present operated service between Calistoga and Lake County points.

APPLICATION NO. 13269.

H. A. Encell and Frank B. Austin, for Applicant.

Sanborn & Roehl and DeLancy C. Smith, by A. B. Roehl, for Beverly Gibson and E. F. Gardner, Protestants.

V. J. Etzkorn, for Southern Pacific Railway, Protestant.

W. L. Warner, for Sacramento Auto Transit Company, Protestant.

C. E. Brown, for San Francisco, Napa & Calistoga Railway, Interested Party.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Calistoga & Clear Lake Stage Company, a corporation, has made application to the Railroad Commission for a certificate of public convenience and necessity to establish an automobile stage line as a common carrier of passengers, baggage and express between Sacramento and Middletown via Winters and Monticello, as an extension and enlargement of its present service between Calistoga and points in Lake County.

Public hearings herein were conducted by Examiner Williams at Middletown and Winters.

During the course of the hearings the application was amended by the filing of new passenger and express rates and time schedules, and also by the exclusion of Monticello as a point to be served between Sacramento and Middletown. In the application as amended, applicant proposes daily service, including Sundays, between Sacramento and Middletown via Davis, Winters and Monticello, for the transportation of patrons originating at or destined to Sacramento, and destined to or originating at points between Monticello and Middletown, along the route through Pope Valley and Aetna Springs. Applicant stipulated that the service would not receive any traffic from Sacramento destined to or from Monticello, but would make Samuel Springs its first point of pick-up or discharge, except for passengers travelling between Monticello and Middletown in either direction. This stipulation was made to avoid duplicating any service now being performed by protestant Beverly Gibson between Sacramento and Winters, and by V. V. Anderson between Winters and Monticello, and, prospectively, any service that may be performed by E. F. Gardner between Winters and Monticello under his application No. 13262, now pending before this Commission.

Applicant proposes a schedule of rates for passengers and express, and time schedules, in its amended Exhibits "A" and "B" attached to the application. There appears to be no unreasonable provisions in the schedule of rates, but the time schedule is open to the objection that the running time, considering the character of the roads between Monticello and Middletown, is not capable of safe accomplishment. This phase of the

proposed operation, however, will be discussed in another paragraph of this opinion.

Applicant proposes to equip the service with two or more 17-passenger stages and to give a trip in each direction daily, leaving each terminus at 11:00 a. m. and arriving at the other at 2:00 p. m. The distance to be traversed is 84 miles, road measurement, and operating conditions are favorable except as above noted, between Monticello and Middletown.

The application is based upon the alleged indirectness and inadequacy of present transportation facilities. The most direct route by which travelers from Sacramento may now reach Lake County resorts is by the Southern Pacific rail line, leaving Sacramento at 8:10 in the morning, changing trains at Suisun, changing again at Napa Junction to the electric line, with a wait of 25 minutes, reaching Calistoga at 11:33 a. m., leaving at 1:30 p. m. via stages of applicant, and arriving at Middletown at 2:30 p. m. This is an elapsed time in transit of 6 hours and 20 minutes for a journey of approximately 117 miles. In the reverse schedule, the service leaves Middletown at 10:30 a. m. by stage of applicant to Calistoga, thence by rail, using the same connections and arriving at Sacramento at 6:45 p. m., an elapsed time of 8 hours and 15 minutes. As against this, applicant proposes a 3-hour journey midday. There are other methods of reaching Lake County points by public transportation facilities, but none so direct or so short in time as the one noted, and hence they need not be detailed.

In support of its application the applicant produced as witnesses J. P. Francisco of Howard Springs, Max G. Hoberg of Hoberg's Springs, N. S. Booth of Harbin Hot Springs, L. D.

Owens of Aetna Springs, H. L. Connor of Walters Springs and Dr. W. R. Prather of Adams Springs. These witnesses are all proprietors of large resorts, varying in capacity from seventy-five guests to seven hundred.

Dr. Prather testified that his resort, the largest in Lake County, has 130 buildings and can accommodate 700 guests. There are approximately 40 more or less important mountain vacation and health resorts between Middletown and Lakeport and Lower Lake, and practically all of them operate from May 1 to October 31 each year, although many remain open the entire year. The testimony of these witnesses was unanimous that transportation facilities of an attractive character, leading directly from Sacramento to Lake County, would invite a large portion of the traveling public from north, east and south of Sacramento to Lake County resorts, whereas the present facilities minimize this travel and force hundreds of persons to use their own vehicles for the journey. It was conceded by all of these witnesses that at least 50 per cent of their visitors in the summer season use their own vehicles to and from Lake County. It was also their unanimous testimony that the establishment of service as proposed by applicant is a necessity for the additional development and betterment of transportation facilities to Lake County, as required by vacationists and health-seekers. These witnesses also testified that they have many guests who come from Sacramento by public transportation or otherwise, and that there is general complaint from all as to the roundabout method of approach to Lake County.

T. A. Read of Middletown, a member of the Lake County Board of Supervisors, testified that resorts are scattered over three supervisorial districts and that the Board had determined to expend the funds necessary to make the road between Middletown and Monticello (there are 10 miles in Lake County) safe for automobile stage traffic, should the certificate herein applied for be granted. In connection with Mr. Read's testimony, a resolution (applicant's Exhibit No. 5) was introduced, showing unanimous action by the Board of Supervisors in advocating the establishment of the stage line as proposed and urging this Commission to grant a certificate therefor. Mr. Read testified that 40 per cent of the taxes collected in his district, in which the Lake County portion of the road is located, is available for road improvement, but he could not estimate the amount.

S. B. Herrick, store and hotel keeper at Middletown for the past 25 years, testified that he receives daily inquiries at his store and hotel for a route between Middletown and Sacramento shorter than the highway or rail lines via Napa and Suisun. This witness admitted that most of the inquiries are from persons driving their own cars, but he testified that there are many other inquiries, and that, in his opinion, public convenience, at least, justifies the operation of a direct service as proposed.

Guy M. Walden, living one mile north of Middletown, testified that the Lake County resorts, as well as other residents, need a direct line between Middletown and Sacramento. He further testified that he would not only use the passenger

service over such a line, but would use the express feature in the shipment of young poultry which he raises, and in the purchase of material and supplies in Sacramento.

At the hearing at Winters, applicant presented as a witness J. F. Shea of Sacramento, who testified to the circulation of a petition among Sacramento business men, favoring the establishment of the service proposed as an improvement over "the present slow and circuitous transportation service, both stage and rail." This petition was signed by 64 mercantile and other establishments of Sacramento.

On behalf of the Sacramento Chamber of Commerce there was introduced, as applicant's Exhibit No. 2, a letter from A. S. Dudley, secretary-manager of the Chamber, stating that the Board of Directors, at a regular meeting, had unanimously endorsed the establishment of a stage line between Sacramento and Middletown by way of Davis, Winters and Monticello, "realizing the vital need for this service in order that the citizens along the route may be provided with transportation service and in order that a more direct means of transit between the many communities of Lake County may be established with the State capital." This letter was supplemented by the testimony of Carl A. Lamus, chairman of the Good Roads Committee of the Chamber of Commerce. Mr. Lamus testified that the Chamber was interested in the proposed service because it would open new mercantile and industrial opportunities for Sacramento, but that the Chamber did not wish to disturb the existing services of protestant Gibson and others, as they were recognized as efficient and valuable to the community. The witness said the Chamber had received complaints as to the

present circuitous way of traveling between Sacramento and Middletown.

Applicant also produced as a witness E. B. Johnson, cashier of the Peoples Bank of Sacramento, who presented a resolution from the Peoples Bank Club urging the granting of the certificate as applied for. This witness testified that the club, composed of about forty members, had intended to make a trip to Lake County last year, but could not find satisfactory public transportation and hence had to use private conveyances. He further testified that he made the trip to Lake County four times last year in his own automobile, but would have used stage service if one as direct as that proposed by applicant had been available. Similar testimony was given by Ezra Casselman of Sacramento.

Sam Aronson, president of applicant corporation, testified that this application was based upon numerous requests made by resort owners in Lake County for a more direct service to the east. The applicant corporation provides the only transportation service in Lake County, and Middletown is the junction point of the various routes served by applicant. Applicant's service receives all travelers delivered at Calistoga by rail or stage lines and transports them direct to the resorts to which the various individuals are destined, with, of course, a redistribution of some passengers at Middletown for resorts not on the main route of travel.

There is nothing in the record to show that this service maintained from Calistoga north to Lakeport and Lower Lake has not been conducted efficiently and satisfactorily to all concerned; if anything, the proof is affirmative that the

service has been exceptionally efficient. Mr. Aronson testified that it is now proposed to extend this service by way of Aetna Springs, Pope Valley, Monticello and Winters to Sacramento, in order that the traffic originating in Northern California and east and south of Sacramento may have a direct and efficient means of access to Lake County resorts. He further testified that the operation is intended to meet public convenience and necessity, and that he is not expecting to find the operation a profitable one for the first year or two. The witness owns a controlling interest in the corporation and his ability to furnish satisfactory service was not questioned at the hearing, although his estimate of costs, considering the road conditions, was disputed. The witness estimated that the cost of operation would be 17 cents per mile on a 17-passenger car and would be much greater, possibly as high as 29 cents, on cars of greater capacity.

Protestants seriously questioned the ability of applicant to provide service with 17-passenger vehicles on the unimproved mountain roads between Middletown and Monticello. It was their contention that in rainy weather the road could not be traversed, it being necessary to ford two creeks, and that much of the time the road is not in good condition. It was also contended that in the case of Putah Creek, where there is a concrete flume across the road, no crossing could even be attempted during storm periods.

V. V. Anderson, conducting passenger, freight and express service between Winters and Monticello under authority of this Commission, testified that he had withdrawn an application to establish service between Monticello and Middletown



because he did not believe the public would patronize a service that did not provide an uninterrupted journey between Sacramento and Lake County resorts. He testified that in his judgment the public would patronize a through service, but no other.

Archibald Asbill, operating a 20,000-acre ranch and stock farm seven miles east of Middletown near the road to be traversed, testified that the road as a rule is passable, but that at times of high water, swollen streams make it difficult for automobiles. Mr. Asbill stated that during the vacation season he has some 20 or 30 employees, with a considerable turnover of labor, and that a direct service such as proposed would enable him to procure abundant labor at Sacramento.

Roy Smith, operating under authority of this Commission a truck line between Middletown and Calistoga and the Lake County resorts, testified that he is familiar with the route proposed and that he regards it as practical for stage operation. He testified that in May of 1926 he drove a 2½-ton truck, loaded, over this route.

T. A. Read, supervisor, also testified that the road is practical for stage operation and that with a very small expenditure of money the Lake County portion of the road could be placed in proper condition for such service.

Similar testimony was given by L. D. Owens of Aetna Springs, H. L. Connor of Walters Springs, Thomas L. Neil of Pope Valley, Dr. Prather of Adams Springs and H. Herman, residing 11 miles east of Middletown.

It was the testimony of J. E. Moore of Monticello, a member of the Board of Supervisors of Napa County, that he did not believe it would be safe to operate stages over this road

in winter. He further testified that the supervisors are now having narrow portions of the road corrected and doing other work to make travel over it safer and more convenient.

E. F. Gardner, a protestant herein, proprietor of a hotel at Monticello, testified that he is familiar with the road between Monticello and Middletown and that it could only be safely traversed by stages in periods other than the winter season.

There seemed to be unanimity of opinion on the part of the witnesses that during the winter season, when there are frequent storms, this road is not a safe one to be used in public transportation, but that the lack of safety is limited to those periods when the streams are swollen and therefore impassable, and that ordinarily the streams may be forded without difficulty.

The applicant was also supported in its application by the testimony of farm centers of Middletown and Pope Valley. L. D. Owens and H. L. Stanford testified as to a meeting of the farm center of Pope Valley, where a resolution was adopted urging the granting of a certificate for the service proposed.

Robert Callon of Middletown presented a resolution of similar import, adopted by the Middletown center of the Lake County Farm Bureau.

H. C. Davey of Cobb Valley testified that a recent cabin site development had sold lots in Sacramento and that a more direct method of transportation was necessary.

Serious protest to the granting of the application

was made by Beverly Gibson and E. F. Gardner. Protestant Gibson operates the River Auto Stage lines out of Sacramento, and one branch, which he has recently acquired, is that operating between Sacramento and Winters. This protestant provides six schedules daily in each direction and testified that although he has available for public use 120 seats each way daily, he has an average of only 36 passengers daily, including local passengers. This protestant asserted his ability to provide any service necessary between Sacramento and any other point, and expressed a willingness to join with Anderson or Gardner and the applicant herein in joint rates and through route between Sacramento and Middletown. The establishment of another service, even though it transacted no local business, was regarded by this protestant as an unnecessary duplication of service and eventually injurious to his operation.

Protestant Gardner, whose application to extend his present operation between Napa and Monticello, from Monticello to Winters, was pending before the Commission at the time of the hearing herein, protested the granting of the instant application on similar grounds and affirmed his readiness to join with applicant in a joint rate and through route from Monticello.

In support of these protestants, William O. Russell, chairman of the Board of Supervisors of Yolo County, testified that the service proposed by applicant was not needed east of Monticello, as the highways were already crowded and another service could not be properly conducted.

A. A. McKenzie, assistant postmaster at Monticello, testified that the Gardner service was satisfactory on freight, but was deficient as to passenger accommodations, the passengers

being carried on a freight vehicle that holds only four persons, who are required to ride on uncushioned seats. Gardner testified that he uses a sedan, in addition to the freight vehicle, during the busy months.

C. A. Elliott of Winters, predecessor to Gibson in the operation of the line between Sacramento and Winters, testified that between May, 1919, and September, 1926, he had received no demand for transportation to Lake County resorts.

It was stipulated by applicant and protestants that eight witnesses from Winters and three from Davis would testify in substance that the established service to these points is adequate.

Southern Pacific Railway, also a protestant herein, introduced its schedules of fares and time tables, together with testimony that lower fares as far as Calistoga are provided for parties of from fifteen to nineteen, parties of this size being entitled to a special car.

No other protestant introduced testimony.

It is urged by protestants herein that the service proposed to be established is a duplication of facilities already available between Sacramento and Monticello, and that a certificate should be granted for service between Monticello and Middletown only, with the understanding that applicant agree with the protestant operating between Sacramento and Winters and the protestants operating or to operate between Winters and Monticello to provide joint rates and through route, with division proportionately of the revenues; or, if there is no concurrence in joint rates and through route, that the two changes over

three separate services are not an inconvenience to the public. In support of this, it is pointed out by protestants that possibly 75 per cent of the visitors to Lake County resorts come from the region of the bay cities, and that this travel requires two transfers - one from the boat to the electric or stage line, and another from the electric or stage line at Calistoga to the service of applicant herein - and that no complaint has been made as to this service.

We cannot concur in these conclusions. The service proposed by applicant is intended to eliminate transfers entirely, and to be established for a business that is not now enjoyed by protestant auto carriers. Applicant has restricted its operation to the acceptance of passengers at Sacramento only, with through transit to points beyond Monticello. Applicant proposes a journey of 86 miles without transfer, as against one of the same distance with two transfers, or one by mixed rail and stage of 117 miles. Applicant proposes a schedule of three hours, as against a schedule of almost seven hours, and in performing this service applicant would not receive any patronage that is now bestowed upon either of the auto carrier protestants. In other words, the service as proposed, if established, is intended for a new business existing at the present time in moderate volume, and for a reasonable prospective patronage that would be created by the improved method of travel. In doing this we cannot see that the mere duplication of two vehicles not conducting any local service could in any way injure the protestant auto carriers.

Protestant Gibson testified that if a public necessity exists for a service between Sacramento and Middletown, he is

willing to provide such service; that inasmuch as he has a large investment in the line between Sacramento and Winters and it has not been profitable, the added volume of business would aid in sustaining this operation. Such an extension, if authorized, would necessarily divert travel from the operation in Lake County now conducted by applicant, to applicant's injury, whereas the operation proposed by applicant, if authorized, would divert no traffic now enjoyed by protestant Gibson.

We have examined carefully the record herein and believe that it supports applicant in its contention for the establishment of service as proposed, with certain modifications. The proof seems ample that between May and October, during the resort and vacation period each year, such a service would be a public convenience and necessity; but there is no proof that between October and May there is any public demand for the service. The demand shown is seasonal and not perennial. There is some testimony in the record that service between Monticello and Middletown, if established, would receive patronage, but we are confronted with the inescapable conclusion from the testimony herein that the mountain road to be traversed between these points is not thoroughly safe for public transportation from October to May. The testimony shows that this road crosses several streams, and that storms make it impassable not only at the streams but sometimes at other points. Whatever the confidence of applicant may be in its ability to "break through", we are not satisfied that there is public need for the operation of the proposed service during the winter months. Should this road be placed in safe operating

condition by the supervisors of the three counties through which it runs, applicant may, by proper supplementary petition and an affirmative showing of public necessity, establish winter operation either through to Sacramento or only between Monticello and Middletown, as road conditions and the factors of safety may later determine.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the establishment and operation by applicant of the automobile stage service as proposed, between May 1 and October 31 in each year, as an extension and enlargement of applicant's present operations between Calistoga, Middletown and other Lake County points. An order granting a certificate with these modifications will accordingly be entered.

#### O R D E R

Calistoga & Clear Lake Stage Company, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a motor stage line as a common carrier of passengers, baggage and express between Sacramento and Middletown and intermediate points, such service to be a part of the present operated service between Calistoga and Lake County points, public hearings having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require the establishment and operation by applicant Calistoga & Clear Lake Stage Company, a corporation, of a motor stage line as a

common carrier of passengers, baggage and express, between Sacramento and Middletown and intermediate points, such service to be operated between May 1 and October 31 only in each year, as an extension and enlargement of applicant's existing operation between Calistoga and Lake County points, over and along the following route:

Via the main highways between Sacramento and Davis, Winters, Monticello, Pope Valley, Aetna Springs and Middletown; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for said service be and the same hereby is granted to applicant Calistoga & Clear Lake Stage Company, a corporation, subject to the following conditions:

- I. applicant shall file with this Commission, within twenty (20) days from date hereof, its written acceptance of the certificate herein granted as an extension and enlargement of its present operative rights, and not as a new or separate right.
- II. Applicant shall file, in duplicate, time schedules and tariff of rates within a period of not to exceed twenty (20) days from date hereof, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of the service herein authorized within a period of not to exceed sixty (60) days from date hereof.
- III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- IV. No vehicle may be operated by applicant under the authority herein granted unless such vehicle is owned or is leased by it



under a contract or agreement on a basis  
satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 14th  
day of March 1927.

Emmert  
J. B. Boudge  
C. A. Seaman  
Leon C. Russell  
Thos. S. Powell  
COMMISSIONERS.