

Decision No. 18107

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CALIFORNIA TRANSIT CO., a corporation,)
 for a certificate of public convenience)
 and necessity to (a) consolidate its)
 operative rights and establish certain)
 through service over separate operative) Application
 rights (b) extend its operative rights) No. 11005
 from Oakland to San Francisco and (c))
 to correct certain fares and establish)
 new rates, rules and regulations govern-)
 ing the transportation of persons,)
 baggage and express.)

- Earl A. Bagby for Applicant,
- A. L. Hammell and Edward Stern for American Railway Express Co.
- H. W. Hobbs for Southern Pacific Company,
- Platt Kent and J. F. Moses for The Atchison, Topeka & Santa Fe Railway Company, Protestant,
- F. B. Murphy for certain interested persons, on behalf of Applicant,
- C. A. Beck for San Francisco-Sierra Motor Coach and Napa Valley Transit Company,
- Chas. R. Detrick for Western Pacific Railroad Company and Sacramento Northern Railroad,
- John T. York and C. E. Brown for San Francisco, Napa and Calistoga Railway,
- C. W. Hatch and A. T. Hatch for Monticello Steamship Co.
- Gilbert F. Jones for Central California Traction Company, Protestant,
- H. A. Butchart for Sierra Railway Co., Protestant.
- Jesse A. Steinhart and P. J. Fiegenbaum for San Francisco-Sacramento Railroad.

BY THE COMMISSION -

OPINION

By its application, as amended, California Transit Company, a corporation, seeks to consolidate its various lines, establish through service over certain routes, extend its operative rights, except as to certain points, from Oakland to San Francisco, correct certain fares and establish new rates, fares, rules and regulations governing the transportation of passengers, baggage and express.

Public hearings on this application were held before Examiner Austin at San Francisco, Vacaville, Stockton and Sacramento when evidence was offered, the matter was orally argued and submitted upon briefs which have since been filed, and it is now ready for decision.

Applicant alleges that it conducts an automobile stage service for the transportation of passengers, baggage and express between Oakland and Vallejo, Vallejo and Sacramento, Oakland and Stockton via Tracy, Stockton and Sacramento, Stockton and San Jose via Livermore, Stockton and Merced via Manteca, San Francisco and Merced via Tracy, Oakland and Napa, Oakland and Martinez and the additional operative rights relating to or connecting with those above mentioned. It alleges that certain operative rights have been granted since the filing of the application as to which a consolidation is also sought, viz., the lines of Joseph Miller and of Valley Transit Company which were transferred to applicant, and also certain alternative or new routes heretofore authorized. Applicant also requests the consolidation of the operative rights sought by certain pending applications, if granted prior to the termination of this proceeding, including the transfer of the Yosemite Transit lines between Stockton, Sonora and Tuolumne and between Stockton, Croveland and Carl Inn (App. No.12524); the proposed extension of the Yosemite Transit lines particularly between Escalon and Manteca and between Stockton and San Francisco via Antioch and Martinez (App. No.10913); the application of Star Auto Stage Association for operative rights between Oakland and Stockton via Martinez and between Byron Junction and Tracy (App. No.6114); and the application of Western Motor Transport Company for operative rights between Martinez and Stockton via Brentwood and between Brentwood and Tracy (App. No.5928).

Applicant also seeks to establish through service between certain points. It specifies through routes between Oakland and Sacramento via Vallejo; between Tuolumne, Sonora and Sacramento via Stockton; and between San Francisco and Carl Inn via

Stockton or Manteca and Escalon during the season of Carl Inn operation. In addition it requests authority to extend all of its operative rights involved in this proceeding (other than between Oakland and Napa, Martinez, Vallejo and Sacramento, respectively, and intermediate points) from Oakland as a terminal to San Francisco, not as a separate operative right but unified and consolidated with its system; and also to establish fares, rates, rules and regulations governing the transportation of passengers, baggage and express to and from San Francisco. A uniform schedule of rates, rules and regulations for the transportation of express is proposed, which is designed to eliminate the existing inequalities in the rate structure and excessive rates and minimums due to the operation of applicant's lines as separate units rather than as a single system; and a revision of the passenger and baggage rules and regulations as proposed. The application refers to certain proposed rates, fares and time schedules which, however, may be changed as occasion demands during the pendency of the proceeding.

The granting of the application was protested by Southern Pacific Company, Western Pacific Railway Company, Sacramento Northern Railway Company, San Francisco-Sacramento Railroad Company, San Francisco, Napa & Calistoga Railway, Monticello Steamship Company, Atchison, Topeka & Santa Fe Railway Company, Central California Traction Co., Sierra Railway Co., American Railway Express Company, San Francisco Sierra Motor Coach Lines and Napa Valley Transit Company.

There was but little opposition to the consolidation considered as a whole, the protestants limiting their attack to certain localized operations. We shall discuss the evidence relating to the issues thus framed, which may be briefly stated as follows:

- (1) The general consolidation.
- (2) The establishment of through service between Oakland and Sacramento via Vallejo.
- (3) The extension of certain operative rights from Oakland to San Francisco as a terminal.
- (4) The unification of the Yosemite Transit Lines.
- (5) The unification of express service.

Before discussing the general consolidation, we shall consider the specific issues which have been raised.

ESTABLISHMENT OF THROUGH SERVICE BETWEEN OAKLAND, AND
SACRAMENTO VIA VALLEJO

As a part of the consolidation of its operative rights, applicant seeks to establish a through service between Oakland and Sacramento via Vallejo. Since this portion of the application was quite seriously contested, it will be dealt with separately rather than in connection with the general consolidation.

At present applicant conducts no through service between Oakland and Sacramento, but operates a disconnected service between Oakland and Vallejo, ^{and} Vallejo and Sacramento, transferring through passengers from one bus to another at Vallejo. Through tickets are not sold, passengers being sold two tickets good for transportation over each portion of this route.

This matter has previously been considered by the Commission. In Application No. 7695, California Transit Company applied for a similar through service alleging that it had formerly conducted such a service under the impression that because it was the owner of two connecting operative rights it was authorized to merge the same, but had ceased such operations following the Commission's decision in the Western Motor Transport case, (Decision No. 9892, dated December 20, 1921, 20 C.R.C. 1038). By Decision No. 10815, dated August 1, 1922, (22 C.R.C. 122), the Commission held that applicant therein had not established public convenience and necessity for the through service,

consequently the application was denied.

Again, in Decision No.15123, Case No.2107, decided July 3, 1925, (26 C.R.C. 733), the Commission held, upon a complaint brought by San Francisco-Sacramento Railroad Co. against California Transit Company, that the latter had been illegally conducting a through service between Oakland and Sacramento, and defendant was ordered to cease such operations and thereafter to operate separate busses or vehicles between Oakland and Vallejo and between Vallejo and Sacramento. Subsequent to that decision applicant, in compliance therewith, has been operating a disconnected service, transferring passengers and baggage from one bus to another at Vallejo. It now seeks a certificate authorizing the establishment of a through service, asserting that since the rendition of Decision No.10813 there has been such a substantial change in conditions as to warrant the merging of these operative rights. Testimony as to the advantages of such a through service and the inconvenience attendant upon the present service, was offered by officials and employes of the applicant and by other witnesses, called at the hearings held in San Francisco, Sacramento and Vacaville. Mr. W. E. Travis, President of California Transit Company, testified that such a service would eliminate the inconvenience now caused by the purchase of two tickets and the transfer of passengers and baggage at Vallejo. In addition, he stated, it would result in greater efficiency of operation, in that more mileage could be obtained from the equipment, thus reducing operating expenses. The witness described the proposed loop service which had formerly been operated, and which he proposed to restore, between Oakland, Vallejo, Sacramento, Stockton and back to Oakland. At present, because of the disconnected service, it is necessary to maintain a force of mechanics and inspectors at Vallejo to repair and inspect stages, a service which can be performed more efficiently at applicant's shops in Oakland.

Applicant called certain of its agents, drivers and employes who described in detail the complaints of passengers arising from

the transfer from bus to bus at Vallejo and to the purchase of two tickets. They stated that frequently passengers lost their tickets, quite often were unable to identify their baggage, all of which resulted in considerable confusion, and frequently complained of seating rearrangements in connecting stages. In order to comply fully with Decision No.15123, applicant has required passengers to reclaim and recheck their baggage at Vallejo, a circumstance which occasions confusion, delay and numerous complaints. It was stated that the inconvenience attendant upon the transfer worked a peculiar hardship to women and children traveling unescorted. The transfer at Vallejo, it appears, has resulted in greater inconvenience and in more numerous complaints than the transfer at Stockton, which is a terminal point, or than the transfer at Sacramento Junction, passengers changing there being much fewer in number than at Vallejo. They also testified that numerous inquiries have been received at various points upon this route relative to the establishment of through service.

Travel studies were presented showing the passengers carried over this route, and in particular the relationship between the passengers now transported and those handled before the disconnected service was inaugurated pursuant to Decision No.15123. Applicant's Exhibit 11 shows the passengers carried during August and September of 1924 and between Vallejo and Oakland, on the one hand, and Vallejo and Sacramento, on the other hand. The following tabulation is based upon this exhibit:

<u>To Sacramento</u>	<u>From Oakland</u>	<u>To Sacramento and points east of Vallejo From points west of Vallejo (except Oakland)</u>	<u>Total</u>
Aug. 1924	384½	461½	846
Aug. 1925	396	393	779
Sept. 1924	407	322	729
Sept. 1925	416	333	749

<u>To Oakland</u>	<u>From Sacramento</u>	<u>To Oakland and points west of Vallejo from points east of Vallejo (except Sacramento)</u>	<u>Total</u>
Aug. 1924	470	292	762
Aug. 1925	495	465	960
Sept. 1924	439	306	745
Sept. 1925	477	542	819

From the testimony of the former agent at Vallejo, it appears that about seven or eight passengers per stage, on week days, and twice as many on Saturdays and Sundays, travel beyond Vallejo. All of them carried at least two pieces of baggage, which was re-checked at Vallejo.

Applicant's Exhibit 18 shows the passengers traveling to and from Vallejo in each direction during August, September and October of 1924, and 1925. The following tabulation is based upon this exhibit:

	<u>West Bound Between Vallejo and Oakland</u>	<u>West Bound Between Vallejo and other points west</u>	<u>East Bound Between Vallejo and Sacramento</u>	<u>East Bound Between Vallejo and other points east</u>
Aug. 1924	2134	768	336	374
Aug. 1925	2363	746	245	372
Sept. 1924	1932	643	225	364
Sept. 1925	1925	679	274	349
Oct. 1924	1801	546	216	426
Oct. 1925	2189	690	280	365

For the purpose of showing the need for this service, applicant called 53 witnesses, residents of San Francisco, Oakland, Berkeley, Richmond, Albany, Suisun, Vacaville and Sacramento, and in addition, the testimony of about 50 more witnesses was included in the record by stipulation of counsel, most of these being residents of Dixon, Cordelia and Vacaville. In substance, these witnesses testified that they traveled more or less frequently over applicant's stage line between Sacramento and Oakland, finding the transfer between stages at Vallejo inconvenient, and some testified to the loss of tickets and baggage, due to this transfer. We refer particularly to the testimony of George J. Bradley,

Manager and Secretary of the Merchants & Manufacturers Association of Sacramento, who testified that although he personally did not use the stages, preferring rather to ride upon the trains, nevertheless, in his judgment those passengers who did elect to ride upon stages were entitled to be transported with as little inconvenience as possible. He stated he could see no reason for the transfer at Vallojo, it being his opinion that since the service was in existence and passengers preferred that route to others, they should not be subjected to the inconvenience of changing stages and rechecking their baggage. In his judgment the present rail transportation service between Oakland and Sacramento was adequate and more than sufficient to serve the public needs, and should it be shown that the through stage service impaired the ability of the railroads to continue their present excellent service, he favored the total withdrawal of stage service between those points, believing that the prosperity of this territory was dependent more upon the integrity of rail than of stage service. However, he stated, so long as passengers chose to travel on stages, he could see no reason for compelling them needlessly to change en route.

Applicant called Mr. H. A. Mitchell, Vice President and General Manager of protestant San Francisco-Sacramento Railroad Company, to determine to what extent that company had increased or lost any patronage, as a result of the disconnected service initiated pursuant to Decision No. 25123. Mr. Mitchell testified that his company was not concerned with any extension of service in the San Joaquin Valley, except insofar as it might affect its service between Sacramento, Oakland and San Francisco, nor was it interested in any points on applicant's route intermediate to Sacramento and Oakland. He further testified that the travel over his line between San Francisco and Sacramento had not increased during September, 1925, over that handled during September, 1924, and that it had decreased during August and

October, 1925, below that handled during a similar period in 1924. He was unable to state the effect of the dissolution of applicant's through service upon the railroad's operations, no study having been made as to this.

Counsel for protestant, Southern Pacific Company, stated that no examination had been made to determine the effect of the consolidation or the dissolution of through service via Vallejo upon that protestant's operations.

At the conclusion of applicant's showing with respect to this feature of the case, counsel for the Southern Pacific Company moved to dismiss this part of the application upon the ground that since the filing of the application herein the Commission by its Decision No.15123 supra had ruled adversely on the question of public convenience and necessity for this through service . Counsel for applicant, resisting the motion, pointed out that such proceeding was a complaint against applicant's operations and did not involve the determination of public convenience and necessity for a through service. The motion was reserved for our determination, no ruling having been made at the trial. We agree with counsel for applicant that Decision No.15123 did not deal in any respect with the question of public convenience and necessity for a through service, consequently the motion will be denied.

The principal protests against the granting of this portion of the application were presented by the San Francisco-Sacramento Railroad Company and the Southern Pacific Company.

The protestant, San Francisco-Sacramento Railroad Company, referred to our previous decisions Nos.10813 and 15123, supra, contending that since the rendition of Decision No.10813 there had been no such change in the surrounding circumstances and conditions as to warrant the granting of a certificate at this time.

Mr. H. A. Mitchell, protestant's Vice President and General Manager, described in detail the service of this carrier. He submitted an exhibit (S.F.-Sac. R.R. Exhibit 1), showing a composite time table of Oakland-Sacramento train service via the Southern Pacific Benicia route and the San Francisco-Sacramento Railroad from which it appears that there are 17 trains eastbound and 18 trains westbound daily between these points, the schedules being frequent and quite well distributed throughout the day. He compared the 35 rail schedules with the 13 stage schedules proposed by applicant and pointed out that in May, 1922, when Decision No.10813 was rendered the railroads then had but 34 trips per day and the stage then proposed 16 trips per day. In addition to a Pullman sleeper, service was available by rail over the Southern Pacific lines. He also submitted an exhibit (S.F.-Sacramento R.R.Exhibit 2), showing the relative operating time of the railroads and the stage, from which it appears that the average rail schedule is 2 hours 54 minutes, and the average stage schedule 4 hours 45 minutes. In this connection the witness stated that since Decision No.10813 was rendered the railroads have shortened their schedule between Sacramento and Oakland, while the stage time has been lengthened. This protestant's Exhibit No.3 is a comparison of average fares over both routes. The one way stage fares are slightly lower than those of the railroad, but the latter has more attractive commutation and excursion fares. This carrier's equipment consists of electric motor coaches, dining and observation cars, the equipment having been improved since the previous decision. In fact, since 1922, the general standard of service has been maintained and improved. In the opinion of this witness, the rail service is sufficient and adequate to serve the public needs, and no additional service is necessary, because it is more expeditious than the stage service, persons missing the earlier stage schedules being able to take later trains and arrive at their destinations earlier than had they originally caught the stage. A new depot

has been opened in Sacramento which is readily accessible to street car lines, and protestants' facilities in Oakland are conveniently located. Nevertheless, the witness stated, the railroad had steadily lost traffic since 1920-1921, and its passenger traffic is now decreasing. When asked by his own counsel to what circumstance he attributed this decline, the witness stated that in his personal judgment it was due principally to privately owned automobiles, a similar decline in traffic having occurred where the railroad met with no competition other than that of privately owned cars. He reiterated this opinion on cross examination. Mr. Mitchell testified that late in 1925 and early in 1926 he visited Vallejo, where he observed upon several occasions the transfer of passengers between applicant's stages. He said there was no confusion nor delay, passengers being interchanged usually within a period of three minutes. According to his observation, an average of four passengers per stage were transferred, the stages were parked close together, and passengers had no difficulty in obtaining seats. He believed the establishment of a through service would tend to attract traffic from the railroad, his opinion being based to a certain extent upon testimony given by applicant's witnesses.

Protestant, Southern Pacific Company, introduced a statement (Southern Pacific Exhibit No.3), comparing its fares with those of applicant, from which it appears that in general the one way fares of applicant are slightly lower than those of this protestant, but the latter offers lower excursion and round trip fares. This protestant's Exhibit No.7 compares the railroad schedules between Oakland and Sacramento with those of applicant, it appearing that Southern Pacific Company operates eastbound 10 schedules daily and westbound 10 schedules daily, with an average running time eastbound of 2 hours, 57 minutes, and westbound 2 hours, 55 minutes; while applicant proposes to operate 7 schedules eastbound with an average running time of 4 hours, 40 minutes, and 6 schedules westbound with an average running time of 4 hours, 45 minutes. Testimony

descriptive of the ~~XXXXXXXXXXXXXXXXXXXX~~ trains was offered, showing that modern standard equipment is used. Another exhibit (S.P. Exhibit No. 8), was offered showing the service between Oakland Pier and Sacramento during the months of August and September, 1922, 1924 and 1925, from which it appears that the average running time has become shorter during that period (indicating faster service) and that the schedules had not been curtailed. One of protestant's representatives testified no complaints had been received as to the service, and protestant called seven witnesses, residents, business men and public officials of Davis, Dixon and Vacaville and by stipulation included two witnesses from Suisun. These witnesses testified they had used the Southern Pacific rail service to Oakland and San Francisco, finding it satisfactory and convenient. One witness testified he had used applicant's stage line, finding the transfer at Vallejo inconvenient, but others stated they had suffered no inconvenience attendant upon such transfer.

In rebuttal applicant introduced two statements (Applicant's Exhibits Nos. 30 and 31), purporting to show extra sections operated on various schedules in and out of Vallejo during the months of November and December, 1925, which it was stated tended to increase the confusion incident to the transfer of passengers at Vallejo. Mr. Everman stated that to the best of his knowledge no dead-head stages were included in these exhibits. He also testified that stages fully loaded with through passengers could be diverted so as not to operate through the station at Vallejo, thereby resulting in the more economical use of equipment, something which could not now be done under the present disconnected service. Applicant's Exhibit 32 shows ticket sales at Oakland for Sacramento and at Sacramento for Oakland during November and December, 1925. Four hundred and thirty three one way and 58 round trip tickets were sold at Oakland for Sacramento, and 633 one way and 32 round trip tickets were sold at Sacramento for Oakland. This witness stated that this exhibit covered through

passengers only, and when read in connection with Applicant's Exhibit No.11 it indicated that of the passengers handled over the entire route between Oakland and Sacramento 40 percent are through passengers and 60 percent are local passengers. Another exhibit (Applicant's Exhibit No.33) shows that during September, 1925, the tickets sold at all of applicant's stations aggregated 82,936, a number which fairly represents the total passengers handled during that month.

The evidence shows that notwithstanding the inconvenience suffered by passengers in transferring from stage to stage and reclaiming and rechecking their baggage at Vallejo, the number travelling through between Oakland and Sacramento has increased since 1922, when Decision No.10615 was rendered. The Opinion in that case states (22 C.R.C., pp 123-124):

"Referring to Exhibit No.1 of applicant herein, the figures show through passenger traffic between Oakland and Sacramento for the period May, 1921, to March, 1922, ranging from a maximum of 582 per month to a minimum of 153 per month; and from Sacramento to Oakland for the same period, a maximum of 417 per month to a minimum of 112 per month; or an average for the 11 months period;

From Oakland to Sacramento of 318
From Sacramento to Oakland of 275,
or an average per day of 20

Passengers, Oakland to miscellaneous points north of Vallejo average 273 per month; and from Sacramento to miscellaneous points south of Vallejo, 129 per month, or a total average per day in both directions of 13."

We have previously extracted certain figures from applicant's exhibits indicating the passengers carried and without repeating them, it is sufficient to call attention to the following brief summary of passengers handled by applicant:

August, 1925	- Oakland to Sacramento	- 396
Sept. 1925	- Oakland to Sacramento	- 416
August, 1925	- Sacramento to Oakland	- 495
Sept. 1925	- Sacramento to Oakland	- 477

These figures are indicative of the general and substantial increase which has taken place in the volume of through passengers handled by applicant. During this time the railroads have added to their schedules, shortened their running time, and maintained unimpaired and even improved the excellent standard of service performed during 1922. Notwithstanding this, their patronage has steadily decreased, the number of passengers handled now being substantially less than those carried in 1922. To what extent the private automobile is responsible cannot be determined from this record. It is apparent that the dissolution of the through stage service previously conducted through Vallejo has not discouraged through travel over applicant's lines between Oakland and Sacramento, but on the contrary the number of passengers willing to undergo the inconvenience and annoyance incident to the transfer has been increasing steadily. It is doubtful whether the resumption of through service will materially injure the railroads. Their patronage has decreased, rather than increased, when it might normally have been expected that stage passengers, disgusted with the inconvenience of changing stages and rechecking baggage, would travel by rail instead. We believe that under the circumstances those who elect to patronize the stages should not be subjected to needless annoyance and inconvenience. Accordingly, we shall find that public convenience and necessity require the operation of a through service between Oakland and Sacramento, and intermediate points, via Vallejo, and a certificate will be granted accordingly.

THE EXTENSION OF CERTAIN OPERATIVE RIGHTS BETWEEN OAKLAND AND
SAN FRANCISCO AS A TERMINAL

As we have stated, the applicant seeks an extension of all operative rights (except between Oakland and Napa, Martinez, Vallejo and Sacramento and intermediate points) from Oakland to San Francisco as a terminal in connection with the consolidation of the system. At present only those passengers originating at Livermore or points south thereof may be carried to San Francisco;

it is proposed to extend this zone westerly to Santa Rita so as to permit the handling of passengers originating at Santa Rita and Pleasanton as well as Livermore, in view of the rerouting privileges granted to applicant by Decision No.15547 in Application No.11004.

Applicant was first permitted to extend its operations to San Francisco by Decision No.11566 in Application No.7982, dated January 26, 1923, (22 C.R.C. 960), which limited this service to stages destined to or originating at Merced only, carrying passengers or baggage destined to or originating at Livermore or points south thereof.

In the Valley Transit case (Decision No.14881, Apps. Nos.10279 and 10687, dated May 2, 1925, (C.R.C. 406),²⁵ the Commission consolidated the lines of that system, authorized their transfer to applicant herein and permitted the establishment of through service over certain routes therein defined, including a route between points on the Valley Transit System and points on applicant's line extending from Merced to San Francisco via Oakland, the order providing that only passengers or express originating at or destined to Livermore or points south thereof may be transported between San Francisco and Oakland. Thus the territory between Merced and Bakersfield was thrown open to San Francisco as a terminal. Again in Decision No.14886, Applications Nos.10679 and 10680, dated May 7, 1925 (26 C.R.C. 421) the Commission authorized the transfer to applicant herein of the Joseph Miller Lines, consolidated them with the Valley Transit system and further consolidated them with the through routes referred to in Decision No.14881 supra, including the route between Merced and San Francisco via Oakland, subject to the same restriction as to local service south of Livermore, thus opening San Francisco to the western San Joaquin valley, comprising generally the routes between Fresno and Los Banos, Merced and Los Banos, and Tracy and Los Banos.

Aside from the lines as to which no extension is sought, comprising what applicant terms its northern division, the routes from Stockton to Oakland, from Sacramento via Stockton to Oakland, and from Stockton to San Jose via Livermore, are the principal lines not now entering San Francisco.

Applicant has interpreted Decisions Nos. 14981 and 14986 as granting an operative right between Stockton and San Francisco, contending that in view of the situation then presented to the Commission, the provision unifying service between all termini and intermediate points of the routes mentioned therein, subject to the exception 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" must be considered as including such intermediate traffic when originating at or destined to points west as well as south of Livermore, a construction which by necessary implication would operate to vest in the applicant the right to conduct a through service between Stockton and San Francisco. Shortly after these decisions were rendered, applicant advised the Commission in writing of its position, its letter dated May 27, 1925, being introduced in evidence as Applicant's Exhibit No. 14. The matter was discussed verbally with representatives of the Commission and applicant was advised to await the outcome of the instant proceeding. Not wishing to waive any rights and acting in the utmost good faith, applicant established and conducted a through service between San Francisco and Stockton, from November, 1925, until April, 1926, when the service was withdrawn pending the termination of this proceeding. The record shows that applicant has kept the Commission duly advised as to its actions in this respect.

If these decisions operated to vest in applicant the right to extend its service to San Francisco, then this proceeding was unnecessary, for if applicant possessed such an operative right, no showing of public convenience and necessity would be required. On

the other hand, if the decisions did not have the effect claimed, then it is essential that a proper showing be made before such an extension can be granted.

It is apparent that Decision No. 11566 dealt only with traffic between Merced and San Francisco and that the limitation of local traffic between San Francisco and Livermore and points south was used advisedly, particularly in view of the circumstance that a through operative right from Stockton to San Francisco was also sought and was denied in that application. And from a consideration of the matters presented and determined in Applications Nos. 14881 and 14886 it seems clear that in adopting the same limitation, excluding local traffic except that originating at Livermore or points south, the Commission merely adopted and reaffirmed the provisions of its previous Decision No. 11566. Furthermore, we believe it is not sound policy to permit the vesting of an important operative right merely upon a narrow and technical construction of our decisions. Such decisions should be construed liberally in favor of the public and against the grantee of the certificate.

It is well established that "grants of franchises and special privileges by the state to private persons or corporations are to be construed most strongly in favor of the public, and that, where the privilege claimed is doubtful, nothing is to be taken by mere implication as against public rights."

Clark v. Los Angeles, 160 Cal. 30, 29; 116 Pac. 722.

Sunset Tel. & Tel. Co. v. Pasadena, 161 Cal. 273;
118 Pac. 796.

Civil Code, sec. 10692.

Applicant called several of its agents and other representatives to show the need for the through service. Its agent at Oakland, F.T. Morse, testified that quite often the Southern Pacific electric trains were late, thus causing passengers from San Francisco to miss stage connections, frequently delaying them for two hours until the next stage schedule. This seriously inconvenienced many passengers who

were destined to mountain points. The agent at San Francisco, Ira Smeltzer, stated that requests were received daily from fifteen to twenty prospective passengers desiring through service to Stockton. At present these passengers are directed to take the electric trains to the stage depot in Oakland. The agent at Stockton, H.E. Rea, testified that approximately seventy-five persons inquired daily for service to the bay cities, of whom about 75% desired to go to San Francisco. During October 1925 there were sold between 1000 and 1200 tickets for passage between Stockton and Oakland. This witness also testified that applicant's depot in Stockton was conveniently located and readily accessible to the downtown section.

One of the ticket agents in Stockton, J. P. McGrath, stated that 65% of those inquir^{ing} for transportation to the Bay cities, and over 50% of those buying tickets to such points, desired to travel to San Francisco. A driver, employed by applicant, testified that approximately one-half the passengers traveling from Stockton to Oakland were bound to San Francisco, and that daily he heard complaints from passengers about the transfer at Oakland to the electric trains and ferry boats. Another driver stated there was very little traffic originating between Sacramento and Stockton which was destined to bay cities, most of such passengers traveling to intermediate points.

H. A. Lewellen, formerly Superintendent of transportation of Yosemite Transit System, testified that many passengers traveling upon that line from points beyond Stockton, daily inquired for through service to San Francisco.

F. D. Everman stated that since the cessation of the temporary through service between Stockton and San Francisco, passengers bound to San Francisco were required to change at Oakland to the Merced stage, and if that stage were late they were obliged to take the electric trains, porters being available for carrying their baggage to the trains.

A statement was submitted (Applicant's Exhibit No.21), showing the passengers carried between Stockton and Oakland in both directions during August and September, 1925, the capacity of the cars handling this traffic and the vacant seats, a summary of which follows:

STATEMENT OF PASSENGERS CARRIED BETWEEN
STOCKTON AND OAKLAND
DURING AUGUST AND SEPTEMBER, 1925.

Oakland to Stockton					
	: Leave Oakland			: Arrive Stockton	
	:Car	:Passengers	:Vacant	:Passengers	: Vacant
	:Capacity	:Carried	:Seats	:Carried	: Seats
August	: 5876	: 3003	: 2873	: 3450	: 2426
September	: <u>5932</u>	: <u>3042</u>	: <u>2890</u>	: <u>3324</u>	: <u>2608</u>
Total	:11808	: 6045	: 5763	: 6774	: 5034
Average per day	: 193	: 99	: 94	: 111	: 82
Average per schedule	: 27.5	: 14.1	: 13.4	: 15.8	: 11.7
: Stockton to Oakland					
	: Leave Stockton			: Arrive Oakland	
	:Car	:Passengers	:vacant	:Passengers	: Vacant
	:Capacity	:Carried	:Seats	:Carried	: Seats
August	: 5866	: 3292	: 2574	: 3189	: 2677
September	: <u>5684</u>	: <u>3144</u>	: <u>2540</u>	: <u>3035</u>	: <u>2649</u>
Total	:11550	: 6436	: 5114	: 6224	: 5326
Average per day	: 189	: 105	: 83	: 102	: 87
Average per schedule	: 27	: 15	: 11.8	: 14.5	: 12.4

This includes seven schedules daily in each direction.

This indicates that in excess of 3000 passengers are carried monthly in each direction between Stockton and Oakland, and if we accept the estimate of applicant's witness, that approximately 75% are bound to San Francisco, it would appear that over 2200 passengers per month travel by way of applicant's route between Stockton and San Francisco.

With respect to this proposed extension, applicant called nineteen witnesses aside from its own officials and employees, including merchants, druggists, business and professional men, and city officials, residing at Stockton, Pleasanton, Livermore and Santa Rita, all of whom traveled more or less frequently over applicant's line to Oakland and thence to San Francisco. They complained of the inconvenience of changing to the electric trains upon arriving at the stage terminal at Oakland; they stated that a direct through service would be used; and some who came in contact with the public in their respective communities, detailed the frequent inquiries received relative to a through service to San Francisco.

At the conclusion of applicant's showing, protestant, Southern Pacific Company, moved to strike out all testimony relating to public convenience and necessity for the transportation of passengers between Stockton and San Francisco, on the ground that since applicant was then serving these points under an asserted grant of authority from the Commission, the question of public convenience and necessity was not involved in the case. In view of our conclusion, stated above, that applicant possessed no such operative right, the motion will be denied.

Protestant, Southern Pacific Company, introduced evidence showing the location of the various railroad depots in Stockton; that its own depot was conveniently located and accessible to the principal car lines; that there had been no complaint as to its service between San Francisco and Stockton, nor had there been any demands for additional service between those points or between

San Francisco, and Fresno, and Merced. It offered a tabulation showing that between San Francisco and Lodi, via Stockton, the one-way rail fares were higher than the stage fares, but beyond Galt the rail fares were lower. A travel study was submitted showing the number of passengers handled in 1922, 1923, and 1924 between San Francisco and Modesto, Turlock, and Merced, respectively, these being selected as representative points, which was supplemented by testimony as to passengers handled in 1925.

The following statement is a summary of this Exhibit:

BETWEEN SAN FRANCISCO and

	<u>MODESTO</u>	<u>TURLOCK</u>	<u>MERCED</u>
1922	12329	4481	7767
1923	12725	4505	8188
1924	9634	3616	7534
1925	9894	4028	9231

Accepting 1923 as a normal year, the traffic decreased by 10% in 1924, but increased to a slight degree in 1925, this being due, according to one of protestant's witnesses, to certain excursions designed to stimulate traffic. C. E. Peterson, one of protestant's witnesses, testified that the reduction in 1924 was coincident with the establishment of through service over the California Transit lines to San Francisco under Decision No. 11566, ^{was uncertain} but/whether contemporaneously there had been a general increase or decrease over other rail lines, nor to what extent the private automobile had contributed to the reduction of passenger traffic.

Testimony was also introduced descriptive of the trains operated between Stockton and San Francisco showing the equipment used, the seating space available and the passengers carried.

Southern Pacific Exhibit No.4 shows the passengers carried and the space available during the period, November 22nd to 28th, inclusive, 1925, a summary of which follows:

<u>Train Numbers</u>	<u>Average seats available</u>	<u>Average Maximum number of seats occupied</u>
31	198	59
32	137	45
55	89	47
36	346	129
37	166	61
38	202	93
79	155	70
80	194	93
82	149	57
24 - 210	127	38

This indicates that apparently Southern Pacific Co. has ample space available for handling passengers traveling between these points.

Exhibits were also introduced showing the relative rail and stage schedules between San Francisco and Stockton. From these it appears that Southern Pacific Co. operates daily eight schedules from San Francisco to Stockton and five in the opposite direction; that over all rail lines there are fifteen trains daily from San Francisco to Stockton, and thirteen in the opposite direction; and that applicant operates eight schedules daily each way between these points.

This protestant called three witnesses, one of whom traveled frequently, and another occasionally, between San Francisco and Stockton, using the rail service and finding it satisfactory. One of them testified that the stages were frequently crowded, and that the transfer from the stage to the electric trains at Oakland was inconvenient. The secretary of the Stockton Merchants Association testified that his organization had decided to remain neutral in this controversy. Previously one of applicant's witnesses testified that he had been requested by the President and Secretary of the association to testify on behalf of applicant, but apparently the organization subsequently determined

to take no official action.

The Atchison, Topeka and Santa Fe Railway Company, in support of its protest, called one of its passenger traffic officials, who described its service and schedules, stated its passenger business was decreasing, and asserted that possibly the service might be curtailed. Its trains, with one exception, operate beyond Stockton serving important points in the San Joaquin valley.

In connection with the travel study offered by Southern Pacific Co., referred to above, applicant introduced two statements showing the passengers handled between San Francisco and certain stations in the San Joaquin valley during August, September and October, 1925, from which the following figures have been taken:

	<u>To San Francisco from</u>				:	<u>From San Francisco to</u>			
	<u>points named below</u>					<u>points named below:</u>			
	: Aug.:	Sept.:	Oct.:	Total	:	Aug.:	Sept.:	Oct.:	Total
Livermore	553	272	431	1056	:	422	315	494	1231
Modesto	360	354	358	1072	:	304	347	344	995
Furlock	127	84	93	304	:	105	100	74	279
Merced	154	110	107	371	:	79	65	72	216
Fresno	432	435	386	1253	:	345	379	212	936
Total of all points shown in App. Ex. 22 and 23.	1719	1611	1397	4727	:	1469	1485	1404	4358

If we assume that the total number of passengers handled in 1925 is fairly proportionate to those shown above, the passengers handled by applicant during the year between these points were approximately as follows:

	<u>To San Francisco from</u>	:	<u>From San Francisco to</u>
	<u>points named below</u>	:	<u>points named below</u>
Livermore	4224	:	4924
Modesto	4288	:	3980
Furlock	1216	:	1116
Merced	1484	:	864
Fresno	5012	:	3744
Total all points shown in App. Ex. 22 and 23	18908	:	17432

To what extent the losses of the rail carriers may be attributed to ^{etc.} private automobiles rather than stage competition cannot be determined from this record, if indeed it be a fact susceptible of proof.

Applicant has shown that it is carrying in excess of 3000 passengers monthly in each direction between Stockton and Oakland, of whom about 75% are destined or originate in San Francisco. All these passengers are subjected to the annoyance and inconvenience of transferring at Oakland, either to another stage or to the electric railroad lines, a circumstance which has been productive of many delays and much inconvenience.

In our opinion applicant has shown the need for an extension of its service to San Francisco from points on its lines except as limited in the amended application, consequently a certificate for this service will be granted. In this connection applicant will be permitted to establish a fare of 25 cents for the trans-bay service, which has been established by the evidence as reasonable for the service performed. Because of the rerouting of applicant's lines through Santa Rita and Pleasanton, the former restriction limiting the San Francisco service to traffic originating at Livermore or points south thereof will be removed and the boundary of the local zone will be moved westerly to Santa Rita, no local traffic being permitted west of that point.

We have considered elsewhere in this opinion the extension of service to San Francisco from points on the lines formerly operated by the Yosemite Transit System.

UNIFICATION OF YOSEMITE TRANSIT LINES:

The amended application alleges the filing of Application No. 12524, seeking approval of the transfer to applicant of the Yosemite Transit lines. Pending the hearing this was granted by Decision No. 16012, and applicant now asks that such lines be consolidated with its system.

The Yosemite Transit lines, as they existed when this case was submitted, extend from Stockton to Sonora and Tuolumne, with a branch extending from Yosemite Junction (near Sonora) to Groveland, and in the summ^{er} this branch line is operated to Carl Inn. We are not concerned here with the additional rights granted since the submission of this case by Decision No. 17912 in Application No. 10684 and consolidated cases.

The amended application pleaded the extension sought by Application No. 10915 (then heard and under submission) between Escalon and Manteca, which, if granted, would provide a shorter route than that existing via Stockton, for a through service between San Francisco, Oakland and Carl Inn, connecting there with another stage service to Yosemite Valley. At the conclusion of the hearing in this case, applicant's counsel announced no consolidation of the Manteca-Escalon route, if granted, would be sought in this case. Subsequent to the submission of this case, the cut-off between Manteca and Escalon was authorized by Decision No. 17913. However, in view of what has been stated, it will not be considered in this proceeding.

In the past, applicant maintained joint through rates with the Yosemite Transit, but since the absorption of that line applicant asserts a consolidation should properly replace the former arrangement. Applicant proposes a through service between San Francisco and Carl Inn, via Yosemite Junction, connecting at Carl Inn with stages to Yosemite Valley, operating one schedule daily between June 1st and October 15th, the proposed service obviating a stop-over of one night now required at Carl Inn. Such a through service will stimulate traffic to the Yosemite Valley, it was claimed. Service will be maintained between San Francisco Bay points and Yosemite Transit points, via Stockton, and possibly service into the Yosemite National Park by one line and out by another may be established. The proposed time schedules and tariffs of fares were submitted, the through fares being based on a combination of the present local fares.

In addition to the tourist traffic, applicant expects to transport a substantial number of laborers to various lumber camps, mines and construction camps of the city of San Francisco in connection with its Hetch Hetchy development along or adjacent to the Yosemite Transit lines. At present most of this travel is carried by "rent-car" operators, or cars operated by the employment agencies, very few traveling by rail. Much of this traffic will originate in Sacramento, from which point through cars will be operated if sufficient patronage develops; also, there will be some travel from the labor centers about the bay. At present the only labor camp directly served by applicant is at Moccasin; to serve the others, new operative rights must be secured, or arrangements made for transportation by the employers.

Applicant called several witnesses to show the need for the proposed consolidation. Its agent at Jamestown related the importance of a through service to handle laborers, and described the principal camps where they will be employed. Six witnesses, residents and business men of Sonora and Jamestown, testified in substance that a through and direct service to San Francisco and Oakland and Sacramento was needed, eliminating the existing delays at Stockton; that to facilitate the transportation of laborers to the camps in the mountains a through service should be conducted from Sacramento, an important labor center; that the proposed service to Yosemite Valley will be a great convenience, because it eliminates a lay-over of one night at Carl Inn; and that the Sierra Railway operates but one schedule daily connecting with Valley and Bay points, leaving Sonora at 7:40 A.M., which is too early.

Protestants, Southern Pacific Company, Atchison, Topeka & Santa Fe Railway Company, and Sierra Railway Company, introduced tabulations showing their fares and the time schedules covering the service operated by Sierra Railway from Tuolumne via Standard, Sonora and Jamestown to Oakdale, where it connects with the Santa Fe and the Southern Pacific for Valley and Bay points.

On train daily in each direction is operated by the Sierra Railway, the following table showing the connecting service:

<u>A.T. & S. F.</u> A. M.	<u>S.P.</u> A. M.		<u>S.P.</u> P. M.	<u>A.T. & S. F.</u> P. M.
7:00	7:00	Lv Tuolumne	Ar. 3:56	3:56
7:42	7:42	Sonora	3:15	3:15
8:00	8:00	Jamestown	2:47	2:47
9:55	9:45	<u>Oakdale</u>	12:55	12:40
10:55	11:05	<u>Stockton</u>	11:42	11:35
1:35	1:57	Oakland	9:12	8:50
1:45	2:30	Ar San Francisco	8:40	8:30
P.M.	P.M.	Lv	A.M.	A.M.

A through car is operated daily in each direction by the Sierra Railway and Southern Pacific between Tuolumne and Oakland Pier, in which the through traffic does not average more than 5 passengers per trip, nor does the total travel exceed 20 per trip. Most of the travel is from or to Bay points, being quite light to Sacramento and Valley points. Protestants asserted the Sierra Railway schedule was made to accommodate the traffic, and was most convenient to the majority of passengers.

Mr. H. A. Butchart, General Passenger Agent of Sierra Railway Company, testified that applicant, under its present operative rights, can directly serve but one camp, viz., at Moccasin, and that as to the other camps, they can be reached as conveniently from Hetch Hetchy Junction, on the Sierra Railway, as from Keystone, on the California Transit. Unless applicant obtains additional operative rights from Keystone, laborers must be carried from that point by other lines or by private conveyance.

Protestants, Southern Pacific Company and the Sierra Railway Company, called six witnesses, all of whom were residents, business men and public officials of Sonora and Jamestown. They testified in substance that they used the railroad service more or less frequently from their homes to Stockton, Sacramento, Oakland or San Francisco, finding the train service, and particularly the through car, convenient and satisfactory, there being no need for any additional transportation service, in their judgment. Some of them testified they had observed but few

passengers traveling in the through car. Others said they used the stage occasionally, particularly when they had been unable to leave early enough to take the train.

In our opinion the evidence justifies a consolidation of the Yosemite Transit lines with the rest of applicant's system. The testimony indicates a need for such a service to accommodate tourists, the general public and particularly laborers traveling in the camps in the mountains. Applicant appears to be able to furnish a more flexible and more comprehensive service than the rail line. Although the rail service to this territory is of high class and is dependable, it does not appear adequate to meet the needs of the public. Consequently a certificate of public convenience and necessity will be granted authorizing the consolidation of all the lines formerly owned by Yosemite Transit with those of applicant, and, in addition, through service will be permitted between points on these lines and San Francisco.

UNIFICATION OF EXPRESS SERVICE

In regard to the transportation of express, applicant seeks:

- (1) To establish uniform rates, rules and regulations;
- (2) To extend its operative rights to San Francisco.

At present applicant's operative rights for the transportation of express are not uniform throughout the system, composed as it is of certificates granted or transferred at different times, many of them containing varying provisions governing the handling of express. For example, on the Joseph Miller lines a weight limit of 75 pounds exists, but elsewhere it is 100 pounds; between Stockton and San Joaquin Valley points, the through rates are based on local combinations requiring the use of several minimum rates, which in the aggregate are so high as to be prohibitive, this situation being due to the limitations contained in the tariffs originally filed by individual lines, now a part

of applicant's system, which base their operative rights on operations conducted prior to May 1, 1917. Following Decision No. 14281 (26 C.R.C. 406) in the Valley Transit consolidation, applicant, with the Commission's consent was obliged to continue in effect the former Valley Transit rates, thus perpetuating the old chaotic rate system.

Applicant proposes a system of uniform rates, applicable within and between zones of 40 miles each, extending from 40 to 360 miles; and will establish a uniform weight limit of 100 pounds per package. It submitted the proposed rates, rules and regulations, fully explaining them. The rate basis, as shown by applicant's Exhibit No. 13, provides a fixed charge for overhead and handling, commencing at 20 cents for shipments of 1 to 20 pounds, and progressively increasing to 55 cents on shipments of 75 to 100 pounds; to this is added a charge for each zone, commencing with 1 cent per pound per zone upon shipments of 1 to 20 pounds, which progressively decreases to $7/20$ cent per pound per zone upon shipments of 75 to 100 pounds. In the opinion of Mr. E.G. Markel, the traffic expert engaged by applicant to prepare a revised schedule of express rates, rules and regulations, the proposed rates will be compensatory, yielding substantially the same revenue as the present rates.

Applicant introduced testimony of its officials and of shippers, showing the demand for uniform express rights, and the inconvenience now suffered under present methods; also a detailed explanation was made of the proposed rules and regulations.

In this regard the agent at Oakland testified there was a continuous demand for the shipment of express to points beyond Vallejo, consisting mostly of automobile accessories, averaging 25 pounds in weight and moving within a radius of 40 miles. Similar testimony was given by the agent at Stockton relative to demands for shipment to Fresno, Sacramento, Oakland, San Francisco and way points, and the difficulties experienced because of the combinations of minima which result in prohibitive rates.

About 80% of the shipments travel distances between 40 and 80 miles; the commodities handled include automobile parts and accessories, such comprising over 50% of the total, the remainder consisting of flowers, clothing and dry freight, as the rate structure is not designed to attract low grade commodities; the greater proportion of all shipments do not exceed in value \$20 each; and it appears that 90% of all shipments handled are under 35 pounds, and 45% under 5 pounds.

Applicant proposes to serve 131 points, of which 81 are also served by the American Railway Express Company. Between San Francisco and four typical points served by both companies, viz., Altamont, Stockton, Atwater and Madera, applicant's rates on auto parts, not boxed or crated, are lower than the American Company, but as to other commodities the rates vary accordingly to weight and distance. The points not served by the American Company, are mostly small towns. It appears that applicant's service to certain rail points, such as Vacaville, Cordelia, Los Banos, Dinuba, and Porterville, was more frequent and expeditious, while on the other hand it was conceded that Fresno and Bakersfield had more frequent rail service.

Mr. Markel testified he had investigated the present rates on the Yosemite Transit lines and found a need for revision. The same uniform rate schedule will be extended to these points.

With regard to the extension of express operative rights to San Francisco, the agent at San Francisco testified he received frequent requests for the shipment of express to points such as Modesto, Merced, Stockton and Sacramento, consisting mostly of automobile parts and accessories; the agent at Stockton related the continual demands for shipments to San Francisco, consisting principally of automobile accessories, and machinery and implement parts, stating that frequently emergency shipments to or from Stockton were delivered to or received from the stage terminal at Oakland by messengers sent across the bay by San Francisco shippers, mostly dealers in automobile accessories and parts.

The proposed schedules were offered, covering the entire system, it appearing that between San Francisco, and Stockton, in particular, eight schedules each way will be operated daily.

At present no collection and delivery service is contemplated, nor is this feature covered by the proposed rates. Should the volume of business increase sufficiently such a service may be undertaken but that question is not before us in this proceeding.

Applicant called 23 witnesses comprising business men and city officials of Stockton, San Francisco, Pleasanton, Livermore, Tracy, and Santa Rita. For the most part those engaged in business were dealers in automobile parts and accessories, some, however, handling electrical appliances, photo engraving, or were engaged in the garage business. All testified to the need for an expeditious and dependable service for the transportation of light express packages consisting principally of automobile parts and accessories, and machinery and repair parts. Ninety-five percent of all automobile parts are purchased in San Francisco, this city being the principal market for these commodities because of the limited supply available in the smaller cities and towns. All testified in substance they had used the stage service of applicant and found it satisfactory and expeditious. Because of the fact it has no right to handle express from San Francisco, emergency shipments of automobile parts and accessories are frequently brought by messenger from San Francisco to Oakland, and there delivered to the stage company, and on many occasions shipments destined ultimately to San Francisco are carried by messenger from Oakland to San Francisco.

Some of these witnesses testified it was impossible for a shipment of express handled by the American Railway Express Company to be delivered in Stockton upon the day of shipment in San Francisco, while still others described the unsatisfactory service of that company in relation to this class of commodities.

From their testimony it appears that most of these shipments will not weigh over 20 to 25 pounds per package. Some of the evidence related to the need for an express service from Stockton to San Joaquin Valley points, complaint being made particularly as to applicant's present rates, which as we have pointed out are proposed to be remedied by the new scale of rates. From the testimony of these witnesses it appears that a pickup and delivery service is neither desirable nor would it be used for shipments of this character; because of the imperative need for expeditious handling, shippers prefer to deliver such shipments directly to the stage depot, or to come there to receive them.

One witness at Stockton, formerly an employee of the American Railway Express Company, suggested certain changes in applicant's proposed rules and regulations, which, however, appeared to relate to minor matters.

A news agent at Stockton described the necessity for a through ^{stage} express service to San Francisco for handling his papers and, in addition, testimony was given as to the need and desirability for the transportation of news letters from Newspaper correspondents to their respective papers in San Francisco. Another witness at Stockton described the need for handling small shipments of paper stock consisting usually of paper not ordinarily kept on hand, but needed from time to time to fill rush orders.

Neither of protestants, Southern Pacific Company nor American Railway Express Company has any objection to the readjustment of applicant's rates, rules and regulations, their protest being limited to the proposed extension of service.

Protestant, American Railway Express Company, introduced evidence describing its service and rates. It maintains at Stockton a collection and delivery service, operating two regular schedules daily and affording a special service for emergency shipments. It is possible, by using the depot-to-depot service, to obtain shipments immediately upon the arrival of trains, this being true elsewhere, as well. Two depots are maintained, one at the Southern

Pacific station and the other uptown.

Mr. George S. Reed, route agent, stationed at Fresno, described the service in the San Joaquin Valley, stating that a collection and delivery service was maintained at all important points. About 95% of its business moves between the larger towns, which are served by more frequent schedules. Unlike the applicant, which proposes but a single rate (other than a commodity rate on newsletters), protestant's rates vary with the commodities, extending over a wide range.

Protestant introduced exhibits describing its schedules, rates and the facilities used in its collection and delivery service, the latter requiring a heavy investment which could be obviated were this service discontinued. But this is demanded by most shippers, however, and has kept pace with increased traffic.

Mr. George Baker, Supervisor, San Francisco division, described the service conducted at San Francisco and Oakland, showing in considerable detail the facilities used in the collection and delivery service, in which there is a substantial investment. Similar testimony was given by Mr. A. S. Weston, Traffic Representative, who detailed the expense of conducting this service, and the saving that could be effected were it discontinued.

Mr. Edward Stern, Chief Clerk, Superintendent of Traffic, submitted a statement showing comparative rates of applicant and protestant, tending to show that protestant's rates were lower, particularly as to shipments over 35 pounds. He stated that the average weight of express l. c. l. shipments was 82 pounds.

Four witnesses called by protestant, Southern Pacific Co., merchants of Davis, Dixon, and San Francisco, testified that the railway express service was adequate, and was satisfactory for small emergency shipments.

From the testimony offered by protestants it appears that until the time of the hearing in this case, a package tendered to protestant in San Francisco at 9 A.M. the usual hour for the opening of business houses, would not arrive in Stockton before 8 P.M., and would not be delivered until the next morning. During the course of the hearing, however, a new schedule was established on the Santa Fe train leaving San Francisco at 2 P.M. This train arrives at Stockton at 4:53 P.M. when express shipments may be delivered to shippers waiting at the station, otherwise, due to the necessity of transporting them to the express depot in the Southern Pacific station, they are not available for delivery to shippers waiting there until 5:40 P.M., which is after usual business hours. If the consignee does not call for the package, it is delivered the next morning; and in San Francisco shipments intended for this train must be picked up by 10 A.M. or delivered to the Polk Street depot (the center of the automobile district), by noon, or delivered direct to the Ferry depot.

Considerable testimony was introduced concerning the relative convenience of location and accessibility of the depots of the respective carriers in Stockton. While the express depot is conveniently located with respect to the business district, the stage depot is closer to the automobile accessory houses, a class of shippers which will form the bulk of applicant's patronage.

Although protestant handles express on many train schedules between San Francisco and Stockton, the 2 P.M. Santa Fe train offers the only service by which express may be picked up in San Francisco and be made available for delivery in Stockton the same day. Mr. Baker stated that although the company had endeavored to stimulate earlier shipping, the general shipping public in San Francisco had formed the habit of tendering the greater proportion of its business after 4 P.M., consequently

most express traffic moved from San Francisco on night trains, the company having adjusted the service to meet the demands of the great majority of its shippers.

Applicant offers three daily schedules from San Francisco by which shipments may be delivered at Stockton on the same day, being shipped and received within business hours - (App. Exhibit No.9). Applicant offers a specialized service for the handling of small packages, serving particularly the needs of shippers of automobile parts and accessories. Most of these shipments must be expedited and the stages, satisfying that requirement, have developed a substantial volume of such shipments. A collection and delivery service, even if established would rarely be used. On the other hand, it was stated by Mr. Baker that aside from field milk and cream, and fish, but an infinitesimal part of the American Railway Express shipments was picked up for or delivered directly to the shipper. While protestant's collection and delivery service is extensive and involves considerable expense, it is apparent that it is not devoted primarily to this local service, but is conducted in connection with the company's nation-wide operations.

We are convinced that applicant in the past has been operating under a handicap, in respect to its express service, which seriously impairs its ability to serve the public adequately. Its express service will therefore be unified, and permission will be granted to establish the proposed rates on a zone basis, and the proposed rules and regulations.

As we have stated, it appears that upon the Joseph Miller operative rights there is a maximum weight limit of 75 pounds per package, while upon other operative rights authorizing the transportation of express the weight limit is 100 pounds per package.

Protestant, American Railway Express Company, has challenged applicant's right to handle express over the northern division, claiming it has no authority to do so. In a general way this covers the routes between Oakland and Martinez, Oakland and Napa, Oakland and Vallejo, and Vallejo and Sacramento.

We have examined the decision underlying these operative rights, together with tariffs filed thereunder, and we find that no such express rights exist, the certificates granted applicant's predecessors conferring only the right to carry passengers and baggage. Accordingly, we shall find, and our order will provide that applicant does not possess these operative rights. Moreover, the evidence was insufficient to show public convenience and necessity for granting an express right de novo over these routes.

The evidence shows the need for extending an express service to San Francisco so as to permit operations between that city and all points on its lines embraced within this proceeding, except the routes excluded by the amended application, namely, between San Francisco and Mapa, Martinez, Vallejo and Sacramento, respectively, and intermediate points, (as to which, as we have stated, no express carrying rights exist). Therefore, this extension will be granted, and applicant will be permitted to establish such a service, subject to its proposed rates, rules and regulations. For the purpose of uniformity, the maximum weight limit, of 100 pounds per package, will be established in connection with this service. Since we are dealing with an express service conducted incidentally to a passenger transportation service, which is applicant's primary function, we shall limit the express rights herein granted to property transported in passenger vehicles only.

The General Consolidation

Having disposed of the specific issues embraced in this proceeding, we shall now consider the proposed general consolidation and unification of applicant's lines.

Applicant offered detailed statements (App. Exhibit 3 and 3A) showing the history of its operative rights; it introduced its proposed fares and time schedules; and submitted proposed passenger rules and regulations (App. Exhibits 5 and 6) which it desired to extend throughout the system. Testimony was also introduced showing the benefits and economies resulting from the unification of the lines; and the consequent ability to render through service

Whenever required by the demands of traffic. In this connection it may be said that but little objection was voiced to the general consolidation, or to the proposed fares, rules and regulations. One of the protestants, San Francisco-Sierra Motor Coach Lines, pointed out certain discrepancies between applicant's certificates and its method of operations, which will be considered later.

We have examined the certificates shown in applicant's Exhibits S and SA, which constitute the chain of title to applicant's operative rights, and without setting them forth in detail here, they vest in applicant the right to conduct an automobile stage service, as a common carrier of passengers, baggage and ^{when specifically mentioned} ~~press~~ over the following routes:

Granted to California Transit Co. by transfer from Western Motor Transport Co. pursuant to Decision No. 10073, Application No. 7340, dated February 9, 1922, (21 C.R.C. 211).

This authorized operations over the following routes:

- (1) Between Rodeo and El Cerrito and intermediate points.
- (2) Between El Cerrito and Oakland and intermediate points, excepting service locally between Richmond and Oakland and intermediate points.
- (3) Between Oakland and Martinez and intermediate points including Albany, Richmond Junction, San Pablo, Tank Farm, Pinole, Rodeo, Tormey, Crockett and Port Costa Junction.
- (4) Between Oakland and Martinez, via Franklin Canyon and Glen Frazier, and intermediate points including San Pablo, Tank Farm, Pinole, Franklin Canyon Junction and Glen Frazier, excepting service locally between Oakland and Stege Junction.
- (5) Between Oakland and Vallejo, excepting service locally between Oakland and Stege Junction, and including intermediate points consisting of San Pablo, Tank Farm, Pinole, Rodeo, Tormey and Crockett. (The original certificate, Dec. No. 7309, App. No. 5347, contemplated operations from Crockett to Morrow Cove via the Six Minute Ferry).
- (6) Between Sacramento and Vallejo, and intermediate points,

including Davis, Dixon, Vacaville, Fairchild and Cordelia.

(7) Between Napa and Sacramento Junction.

(8) Between Oakland and Napa and intermediate points, excepting service locally between North Vallejo and Napa and intermediate points. (Subject to reservations hereinafter set forth).

Rerouting Permitted by Decision No.15547, App. No.11004, dated October 21, 1925:

This authorized the rerouting of all service between Vallejo and Sacramento via Suisun, so as to permit operations between Cordelia and Fairfield via Thomasson and Suisun, instead of via Rockville.

The foregoing constitutes applicant's northern division. A description of its operative rights in its southern division, follows:

Granted to Star Auto Stage Company (a corporation, the name of which was subsequently changed by appropriate Superior Court decree to California Transit Company) by transfer from Star Auto Stage Association, pursuant to Decision No.8150, dated September 25, 1920, and Decision No.8231, dated October 11, 1920, in Application No.5163.

This covered the following routes:

(1) Between Stockton and Sacramento and intermediate points, including Five Mile House, Henderson, Woodbridge, Galt, Arno, McConnell and Elk Grove.

(2) Between Stockton and Modesto, and intermediate points, including French Camp, Manteca, Ripon and Salida.

(3) Between Stockton and Oakland and intermediate points, including Tracy, Altamont, Greenville, Livermore, Dublin and Hayward.

(4) Between Stockton and Tracy and intermediate points including Carwood Bridge and White Hall. (Mr. Everman testified that this route, being impracticable, was abandoned at the time of this transfer).

(5) Between Modesto and Merced and intermediate points including Ceres, Esmer, Keyes, Turlock, Delhi, Livingston, Arone, Atwater and Buhach,

(6) Between Stockton and San Jose and intermediate points including French Camp, Santa, Tracy, Altamont, Livermore, Pleasanton, Sunol, Mission San Jose, Warm Springs and Milpitas.

(The foregoing includes express rights, limited to 100 pounds per package, as shown by tariffs filed to define the prior rights of Star Auto Stage Association).

Granted to California Transit Co. by Decision No. 11566, Application No. 7982, dated January 26, 1923, (22 C.R.C. 960).

This authorized applicant to operate between San Francisco and Merced via Oakland, over the existing route between Oakland and Merced, subject to the following condition:

"The certificate herein granted shall authorize the operation into San Francisco of stages destined to or originating at Merced only and no passengers or baggage whatsoever shall ^{be} transported between San Francisco and Oakland, or Oakland and San Francisco upon such stages unless such passengers and baggage are destined to or originate at Livermore or points south thereof."

Granted by Decision No. 14891, Applications Nos. 10279 and 10687, dated May 2, 1925 (26 C.R.C. 406).

This authorizes the consolidation of the lines of Valley Transit Company, their transfer to California Transit Company, and the consolidation of such lines with certain through routes of California Transit Company.

The Valley Transit lines consolidated are:

(1) Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Coshon, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Porterville, Terra Bella, Ducor, Richgrove, Dolano, McFarland, Pamosa, Kimberlana, Lerdo and Seco. (Dec. No. 9869, App. No. 6433).

(2) Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg. (Dec. No.9507, Apps. Nos.7067 and 7068; Dec. No.13692, Ap. No.9849).

(3) Between Fresno and Kingsburg. (Dec. No.10227, App. No.7609).

(4) Between Fresno and Selma (Dec. No.10508, App. No.7853):

(5) Between Fresno and Dinuba, via Fowler, Selma, Parlier and Reedley. (Dec. No.12437, App. No.9251).

(6) Between Visalia and Dinuba via Yetten, Cutler, Cross and Sultana; Tulare and Porterville via Lindsay and Strathmore; and Tulare and Visalia via Mooney Grove. (Dec. No.13692, App. No.9849).

The decision consolidated this group of routes within itself (except local passenger service between Selma and Parlier) and also with certain through routes of California Transit Company described as follows:

"***** 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 Nos.8150 and 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 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."

The decision grants express, as well as passenger rights, over the lines consolidated, subject to a maximum weight limit of 100 pounds per package.

Granted by Decision No.14886, on Applications Nos.10679 and 10680, dated May 7, 1925, (26 C.R.C. 421).

This vests a new operative right in Joseph Miller, consolidates it with the Miller lines, authorizes the transfer of the Miller lines to California Transit Company, and consolidates such lines with the Valley Transit lines (transferred by Dec. No.14881,) and with certain through routes over the California Transit lines.

The new operative right granted to Joseph Miller permits the transportation of passengers and express (limited to a maximum weight of 75 pounds per package) over the following route:

Between Fresno and Los Banos by way of Madera, Califa and Chowchilla and intermediate points.

The consolidation of such operations was permitted "with those now conducted by Joseph Miller pursuant to Decision No.14407, (25 C.R.C. 699), dated December 27, 1924, in Application No.9889, 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."

Permission is granted for the transfer by Joseph Miller to California Transit Company of the operative rights granted therein and by Decision No.14407, as above described; and for the consolidation of such operative rights with those of Valley Transit Company, which were transferred to California Transit Company by Decision No.14881, and also for their consolidation with certain through routes of California Transit Company between Sacramento and Stockton, Stockton and San Jose, Stockton and Tracy, Stockton and Oakland, and San Francisco, Oakland and Merced, subject to the same local exception as to passengers and express handled to and from San Francisco, as set forth in Decision No.14881.

The decision recognizes express rights on the Miller lines, subject to a maximum weight limitation of 75 pounds per package.

Rerouting authorized by Decision No.15547, in Application No.11004, dated October 21, 1925.

This permits the California Transit Company to reroute a portion of its stage service between Oakland and Stockton via Pleasanton in either direction so that such stages shall operate between Santa Rita and Livermore directly through Pleasanton, serving Santa Rita, Pleasanton and Livermore, locally and in connection with other points on its lines.

Granted by Decision No.16012, in Application No.12524, dated February 16, 1926:

This authorized R. R. Young, doing business under the fictitious name of Yosemite Transit, to transfer to California Transit Company an operative right for the transportation of passengers and express between Stockton and Carl Inn and intermediate points.

Young's title is based in part on Decision No.7795, in Application No.5162, dated June 4, 1920, authorizing the transfer to him from Star Auto Stage Association of certain operative rights for the transportation of passengers and express, based on operations prior to May 1, 1917, confirmed by tariffs filed as required by General Order No.47, between Stockton and Groveland, Stockton and Sonora, and Sonora and Tuolumne, over the following routes:

Over the Mariposa County road between Stockton and Valley Home; over the county road between Valley Home and Oakdale; over the State highway between Oakdale and Orange Blossom; over the county road between Orange Blossom and Knight's Ferry; over the State highway between Knight's Ferry and Chinese Camp via Keystone; over the county road and the State highway between Chinese Camp and Jamestown; and over the Big Oak Flat Road between Chinese Camp and Groveland.

In addition he acquired from E.E. Tremain, pursuant to Decision No.7562, Application No.5649, dated May 10, 1920, the right to operate in the summer period between Groveland and Carl Inn.

By Decision No. 11475, Application No. 2039, dated January 8, 1923, Young was authorized to conduct a through service between Stockton and Carl Inn and intermediate points via his existing route through Croveland, the decision providing that the authority granted "in no way is additional to the two certificates heretofore held by him, but does in effect cancel the two individual certificates through the granting of a blanket certificate covering his entire operation."

Decision No. 16012 also operated to vest in applicant herein all inchoate rights owned by Young, arising from applications filed or heard but not decided. This included, among other things, the matters embraced in Application No. 10913.

Some of applicant's present operations were assailed by protestants, the latter contending that applicant was acting in violation of or beyond its operative rights. We shall consider these matters separately.

Operations over Shortway Ferry.

Applicant now transports its stages across Carquinez Straits by ferry operating between Shortway on the south shore to Morrow Cove on the north. Its right to do so is questioned.

Originally the ferry operated between Crockett and Morrow Cove, and upon the consolidation of the two ferry companies, were operated (as at present) between Shortway and Morrow Cove, the other routes being abandoned. Since the Shortway-Morrow Cove ferry was established, it has been the only public ferry operating across the straits. Certificates were granted to applicant's predecessors to Redco and to Crockett, but not specifically to Shortway, a point intermediate. With the change in ferry operations, stages were rerouted accordingly, the Commission being so advised at the time by counsel for the operators, but no new certificate was issued. It appears that throughout the history of these operations applicant and its predecessors have acted in good faith, changing the route only

because of the necessities of the case, there being no other means of getting the stages across. Since applicant's operative rights in this respect are deficient, it will be granted a new certificate permitting the operations of stages over the Shortway ferry, in connection with its present operative rights.

Morse Lines

These lines, extending between Pacific Grove, Del Monte and Monterey to Los Banos and Merced were leased to California Transit Co., pursuant to Decision No.14917, App. No.11004, dated May 12, 1925. By stipulation of counsel for applicant they were excluded from the proposed consolidation.

Thornton Road Route.

For a time applicant routed its stages between Sacramento and Stockton over the Thornton road, because the Lodi route was then impassable. The right to operate over this route is not involved in this proceeding, so applicant states.

Franklin Canyon Route.

The right to operate between Rodeo and Livermore via Franklin Canyon, granted to Western Motor Transport Co. by Decision No.7340, Application No.5274, has been abandoned, the Commission refusing, for that reason, to sanction its transfer to California Transit Co. by Decision No.10073, Application No.7340 (21 C.R.C. 211). In this proceeding, applicant admitted the abandonment of that route.

Applicant also asserted title to an operative right between Oakland and Martinez, via Franklin Canyon. Stages are now operated between these points via Crockett, the Franklin Canyon route having been temporarily abandoned, pending the determination of applications then pending for service beyond Martinez. Applicant's counsel stated it was not included in this case, but later Mr. Travis testified he sought the unification of this route, in this proceeding. Since protestants have evidently relied upon counsel's statement, we shall not determine the existence of this right nor

pass upon the question of its consolidation, our decision herein being without prejudice to the adjudication of these facts.

Oakland-Napa Route

By Decision No. 8466, Application No. 5758, dated December 20, 1920, Western Motor Transport Co. was granted a passenger operative right between Oakland and Healdsburg via Napa and Santa Rosa, subject to certain restrictions as to local traffic. Western Motor Transport Co., by Decision No. 8994, Application No. 6775, dated May 21, 1921, was authorized to transfer to A. Dunham that portion of such operative right between Napa and Santa Rosa, and to J. F. Birch, that portion between Santa Rosa and Healdsburg. Subsequently both Applications Nos. 5758 and 6775 were reopened by an order to show cause, raising the issue of the propriety of the transfers of part of an operative right between Oakland and Healdsburg, in view of the alleged fact that the original certificate (Dec. No. 8466) was granted upon a showing of public necessity for a through service. The matter was heard, but has not been determined. We shall not re-try that issue here, but any order made herein will be without prejudice to the determination of pending proceedings affecting this operative right.

Operation of Miller Lines.

It is charged that applicant procured the consolidation of the Miller Lines (Decision No. 14886, 26 C.R.C. 421) upon a showing that public necessity required the operation of through service via Tracy, among other points, but that shortly after the decision applicant discontinued this through service and compelled passengers to change at Tracy. In this connection applicant's good faith is questioned, particularly by protestant San Francisco-Sierra Motor Coach Lines. In justification of applicant's conduct, Mr. Travis testified that the through service via Tracy proved unsatisfactory, consequently it was abandoned by consent of the Commission. Under the circumstances we shall not re-examine the matter here.

Escalon-Manteca Route

Although testimony was introduced regarding the desirability and need for through service over the proposed cut-off via Escalon and Manteca, which would provide a shorter route from Yosemite Transit points than the present service via Stockton, applicant withdrew that feature from the proposed consolidation, in view of the fact that Application No.10913, wherein the Manteca-Escalon operative right was sought, had not been decided when this case was submitted. Subsequently, on January 16th, 1927, a certificate for this service was granted by Decision No.17912, in Applications Nos.10684, 10913 and consolidated cases. However, under the circumstances, the consolidation of this route cannot be considered in the instant proceeding.

Protests

Some of the testimony offered by protestants was directed to the general consolidation rather than the special features which have been discussed.

Protestant, Central California Traction Co., an electric railroad operating eight trains daily each way between Stockton and Sacramento, and twenty-one trains daily each way between Stockton and Lodi, through its Auditor of Freight and Passenger Accounts, Mr. F. L. Carsner, introduced exhibits showing the local commuters and interline passengers handled in each direction during 1923 and 1924 and from January to August, inclusive, 1925. We have summarized below the information shown in these statements:

<u>Stockton to Sacramento</u>	<u>Local Passengers</u>	<u>Interline Passengers</u>	<u>Commute Books</u>
1923	20584	992	2 (30 ride)
1924	13895	685	--
1925 (Jan.-Aug. inc)	9097	499	--
<u>Sacramento to Stockton.</u>			
1923	25968	1148	
1924	18423	963	
1925 (Jan.-Aug. inc)	9542	331	1-

This indicates, as the witness testified, a steady decline in passenger traffic. Mr. Carsner stated he believed the restoration of applicant's loop service via Oakland, Vallejo, Sacramento, Stockton and back to Oakland, which was discontinued when through service via Vallejo was dissolved, would not affect protestant. Apparently he was under the impression that applicant was now prohibited from operating through stages from Sacramento to Oakland via Stockton, it being his belief that a transfer must be made at Stockton, and his company's protest was directed principally toward the linking up of these supposedly separate operative rights. However, as it is clear that a unified service was established between these points by Decisions Nos. 11881 and 14886, supra, it is evident that this protestant has misunderstood the scope of the application and the issues involved.

Protestant, Monticello Steamship Co., introduced no testimony, but expressed its position through Mr. C. F. Hatch, its Secretary and Treasurer. It objects principally to applicant's failure to meet its San Francisco steamers at the Vallejo dock, stating such a service had previously been maintained but had by degrees been discontinued. Applicant stated it proposes to operate connecting schedules. However, there is no testimony bearing upon this situation, one way or the other.

On behalf of protestant, San Francisco, Napa & Calistoga Railway, its Vice President and General Manager, Mr. C. E. Brown introduced cost, operating and traffic statistics designed to show the decrease in passenger traffic due, so the witness testified, to competition with privately owned automobiles and with applicant in the operation of its Napa-Vallejo-Oakland line.

The following statement shows passengers carried between 1915 and 1925, inclusive:

Year	Number passengers carried	Percentage of passengers carried in 1915
1915	620558	100.0
1916	608021	98.0
1917	697016	112.3
1918	830022	133.7

Year	Number passengers carried	Percentage of passengers carried in 1915
1919	690732	111.3
1920	660936	106.5
1921	593230	95.6
1922	454085	73.2
1923	397735	64.1
1924	339884	54.8
1925	310069	49.9

From this it appears that the traffic has diminished quite sharply during recent years. It was also shown that a substantial portion of passengers carried travel to and from Napa.

Protestants' objection, so Mr. Brown testified, was directed largely against applicant's service between Napa and Oakland, as to which protestant had a complaint pending before the Commission. Through service between San Francisco and Napa, was as we have stated, waived by applicant at the hearing.

Since applicant's right to operate between Oakland and Napa is still the subject of litigation, any order herein respecting such right will be made without prejudice to the final determination of these proceedings.

Protestant, San Francisco-Sierra Motor Coach Lines, offered no testimony, but submitted its proposed time schedules and tariff of fares. It challenged generally applicant's right to consolidate, its counsel, participating actively in the trial, dealing for the most part with alleged departures from applicant's operative rights which were discussed in its brief and have been dealt with previously in this opinion. Since the submission of this case, this protestant's application for a certificate to conduct a through passenger stage service between San Francisco and San Francisco Recreation Camp via Stockton, has been denied. (Decision No.17912, Application No.10684, etc.).

From the record we are convinced that applicant has satisfactorily established the need for a consolidation, both in superior service to the public and in resulting economies of operation, - a showing which has not been overcome by protestants. Much was said in argument about the quantum of proof required

to establish the need for a consolidation, and as to the burden of proof. Applicant contends that the rule established in the Western Motor Transport case (20 C.R.C. 1058) to the effect that a separate certificate must be obtained for through service over separate lines owned by the same operator, is a harsh doctrine in derogation of the statute, and consequently that decision should be strictly construed. To this interpretation of that decision we cannot subscribe. The rule there announced, we believe, is founded upon a reasonable interpretation of the statute, which clearly contemplates that operations over an entire system are necessarily distinct from operations over its constituent lines. The reasonableness of this rule is aptly illustrated by the situation presented in this proceeding. Who, for example, could fairly contend that the public need for through service over all of an extensive system such as that of applicant, does not differ substantially from the need for local service between Stockton and San Francisco, or Oakland and Redwood? Each of the constituent operative rights was granted upon a showing confined to that route alone; necessarily, no one could foresee the possible combinations which might ultimately develop. When they have passed into one ownership, the need for service over the entire network of lines presents an entirely different problem, and if one of the units of applicant's system had instead passed into the hands of another company, such as the Pickwick Stage System, would not an entirely different question, considered as a whole and in its details, have arisen as to the need for through service? We believe that the Western Motor Transport decision is founded in law, and also in sound policy, which requires that there be proper regulation of the development of these large stage systems. Any other rule would destroy the safeguards thrown around adequate service and security of investment by our former decisions. We hold that an application such as this must rest upon a satisfactory showing of public convenience and necessity, as in the case of any other application for the establishment of an

automobile stage line, whether or not such a showing has been made is a question of fact, depending upon the circumstances of each case.

Counsel for protestant Southern Pacific Company contended that that protestant was under no obligation to produce certain passenger travel statistics because applicant had failed to show a need for the particular service. It is true, of course, that before a certificate can be granted, the burden rests affirmatively upon an applicant in a proceeding such as this to establish by a preponderance of the evidence that there is a need for the proposed service or, in the words of the statute, that it is required by "public convenience and necessity." The protestant may overcome such a showing if he can.

We hold, upon the facts that applicant is entitled to the consolidation sought. This will include all of applicant's lines embraced in this proceeding, except those above mentioned, specifically excluded, and the applications of Star Auto Stage Association (Application No. 6114) and Western Motor Transport Co. (Application No. 5928), referred to in the application, which were not decided prior to submission of this case.

We see no objection to the proposed passengers fares, rules and regulations, so therefore applicant will be permitted to adopt them and put them into effect throughout its system. The proposed time schedules are also approved. But because of the time which has elapsed since the opening of the hearing, it is possible amendments may be necessary, consequently applicant will be allowed to submit proposed schedules to meet present conditions, which, if approved, may be made effective at once.

Our findings, in detail, follow:

Upon full consideration of the evidence in the above entitled proceeding, we are of the opinion and hereby find as facts:

I.

That public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers and baggage, over the following routes:

(a)- Between Rodco and Vallejo, and between Crockett and Vallejo, via Shortway and Morrow Cove and ferry boats operating between said points in connection with its consolidated authorizations herein authorized.

(b)- Between Oakland and Sacramento and intermediate points now served via Vallejo by means of a direct through service without interchange or transfer of passengers or baggage at Vallejo, or any other intermediate point.

II.

That public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers, baggage and express (subject to a weight limit of 100 pounds per package), over the following route:

Between San Francisco and Oakland, not as a separate operative right, but in connection with and as a part of applicant's

unified and consolidated operations as herein authorized; and in this respect, between San Francisco and all points on applicant's system as consolidated herein, except over the following routes, to-wit: between San Francisco or Oakland, on the one hand, and Napa, Martinez, Vallejo or Sacramento, respectively, or intermediate points, on the other hand; provided that no passengers, baggage or express shall be transported to or from San Francisco, originating at or destined to points west of Santa Rita.

III

That public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company and the operation as one unified system of through service for the transportation of passengers and baggage between all the termini and intermediate points served by and along its present several routes more specifically described in the following order:

IV

That said California Transit Company does not possess the right to transport express or property over or along the following routes, to wit:

- (a) Between Oakland and Martinez and intermediate points
- (b) Between Oakland and Napa and intermediate points
- (c) Between Oakland and Vallejo and intermediate points
- (d) Between Vallejo and Sacramento and intermediate points

V

That public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company and the operation as one unified system of through service for the transportation of express upon its passenger cars only (subject to uniform maximum weight limit of 100 pounds per package, applicable throughout all portions of its system where express transportation is authorized), between all the termini and intermediate points served by and along its present

several routes, more specifically described in the following order, except over and along the routes and between the points specifically mentioned in the preceding finding.

VI.

That public convenience and necessity require the transportation by said California Transit Company of passengers, baggage and express (where express transportation is herein authorized), over and along its present several routes as consolidated herein under and subject to uniform rules and regulations applicable throughout the system, and that the proposed rules and regulations governing the transportation of passengers, baggage and express submitted by said applicant in evidence are just and reasonable and should be established, provided that nothing herein contained shall be construed to authorize applicant to transport express over and along the routes mentioned in finding IV hereof.

VII.

That the rates and fares proposed to be established by said applicant for the transportation of passengers, baggage and express in connection with the consolidation of its lines, including the proposed fare of 25¢ per passenger for the transportation of passengers between Oakland and San Francisco and the proposed zone basis for express rates, as hereinabove stated, are just and reasonable and should be established.

An order will be entered accordingly.

O R D E R

An application having been filed with the Railroad Commission, as indicated in the Opinion which precedes this Order, public hearings having been held, the matter having been duly submitted, and the Commission being now fully advised and basing its order on the findings of fact which appear in the Opinion preceding this Order:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage

service for the transportation of passengers and baggage, over the following routes:

(a)- Between Rodeo and Vallejo, and between Crockett and Vallejo, via Shortway and Morrow Cove and ferry boats operating between said points in connection with its consolidated authorizations herein authorized.

(b)- Between Oakland and Sacramento and intermediate points now served via Vallejo by means of a direct through service without interchange or transfer of passengers or baggage at Vallejo, or any other intermediate point.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FURTHER DECLARES that public convenience and necessity require the operation by California Transit Company, a corporation, of an automobile stage service for the transportation of passengers, baggage and express (subject to a weight limit of 100 pounds per package), over the following route:

Between San Francisco and Oakland, not as a separate operative right, but in connection with and as a part of applicant's unified and consolidated operations as herein authorized; and in this respect, between San Francisco and all points on applicant's system as consolidated herein, except over the following routes, to wit: between San Francisco or Oakland, on the one hand, and Napa, Martinez, Vallejo or Sacramento, respectively, or intermediate points, on the other hand; provided that no passengers, baggage or express shall be transported to or from San Francisco, originating at or destined to points west of Santa Rita.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted said California Transit Company for the establishment and operation of the service hereinabove described, subject to the condition hereinafter set forth:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FURTHER DECLARES that public convenience and necessity require the

consolidation and unification of the operative rights of said California Transit Company as one unified system of through service for the transportation of passengers and baggage between all the termini and intermediate points served by and along its present several routes, which routes are as follows:

Granted by Decision No.10073, Application No.7340, dated February 9, 1922, (21 C.R.C. 211).

(1)- Between Rodeo and El Cerrito and intermediate points.

(2)- Between El Cerrito and Oakland and intermediate points, excepting service locally between Richmond and Oakland and intermediate points.

(3)- Between Oakland and Martinez and intermediate points including Albany, Richmond Junction, San Pablo, Tank Farm, Pinole, Rodeo, Tormey, Crockett and Fort Costa Junction.

(4)- Between Oakland and Vallejo, excepting service locally between Oakland and Stege Junction, and including intermediate points consisting of San Pablo, Tank Farm, Pinole, Rodeo, Tormey and Crockett.

(5)- Between Sacramento and Vallejo, and intermediate points, including Davis, Dixon, Vacaville, Fairchild and Cordelia.

(6)- Between Napa and Sacramento Junction.

(7)- Between Oakland and Napa and intermediate points, excepting service locally between North Vallejo and Napa and intermediate points. (Subject to reservations set forth in the foregoing opinion).

Rerouting permitted by Decision No.15547, App. No.11004, dated October 21, 1925:

Rerouting of all service between Vallejo and Sacramento via Suisun, so as to permit operations between Cordelia and Fairchild via Thomasson and Suisun, instead of via Rockville.

Granted by Decision No.8150, dated September 25, 1920, and Decision No.8231, dated October 11, 1920, in Application No.5165.

(1)- Between Stockton and Sacramento and intermediate points, including Five Mile House, Henderson, Woodbridge, Galt, Arno, Mc Connell and Elk Grove.

(2)- Between Stockton and Sacramento and intermediate points, including French Camp, Manteca, Ripon and Salida.

(3)- Between Stockton and Oakland and intermediate points, including Tracy, Altamont, Greenville, Livermore, Dublin and Haywards.

(4)- Between Modesto and Merced and intermediate points including Cores, Esner, Keyes, Turlock, Delhi, Livingston, Arena, Atwater and Babach.

(5)- Between Stockton and San Jose and intermediate points including French Camp, Santa, Tracy, Altamont, Livermore, Pleasanton, Sunol, Mission San Jose, Warm Springs and Milpitas.

Granted by Decision No.11586, Application No.7982, dated January 26, 1925, (22 C.R.C. 960).

Between San Francisco and Merced via Oakland, over the existing route between Oakland and Merced.

Granted and Consolidated by Decision No.14891, Applications Nos.10279 and 10687, dated May 2, 1925, (26 C.R.C. 406).

(1) Between Fresno and Bakersfield via Malaga, Fowler, Selma, Kingsburg, Traver, Goshen, Visalia, Farmersville, Exeter, Lindsay, Strathmore, Forterville, Terra Bella, Ducor, Richgrove, Delano, McFarland, Famosa, Kimberlana, Lardo and Seco.

(2)-Between Fresno and Madera; Madera and Merced; Fresno and Bakersfield via Tulare; and Fresno and Kingsburg.

(3) Between Fresno and Kingsburg.

(4) Between Fresno and Selma.

(5) Between Fresno and Dinuba, via Fowler, Selma, Parlier and Reedley.

(6) Between Visalia and Dinuba via Yettam, Cutler, Crosi, and Sultana; Tulare and Forterville via Lindsay and Strathmore; and Tulare and Visalia via Mooney Grove.

(7) Between Sacramento and Stockton, Stockton and Modesto, Modesto and Merced and San Francisco, Oakland and Merced, such operations to include transportation of passengers and express between all of the termini and intermediate points served by and along such routes.

Granted and Consolidated by Decision No.14886, on Applications Nos.10679 and 10680, dated May 7, 1925, (26 C.R.C. 421).

(1) Between Fresno and Los Banos by way of Madera, Califa and Chowchilla and intermediate points.

(2) Between Fresno, Mendota, Firebaugh, Okalis, Dos Palos, Los Banos, Volta, Gustine, Newman, Crows Landing, Patterson, Westley, Vernalis, Tracy, and Merced via Los Banos and intermediate points.

(5) Between points on the two routes above described and points on the lines of Valley Transit Company, transferred to California Transit Company by Decision No.14881, hereinabove described.

(4) Between Sacramento and Stockton, Stockton and San Jose, Stockton and Tracy, Stockton and Oakland, and San Francisco, Oakland and Merced as consolidated through routes.

Rerouting authorized by Decision No.15547, in Application No.11004, dated October 31, 1925.

Reroutes a portion of stage service between Oakland and Stockton via Pleasanton in either direction so that such stages shall operate between Santa Rita and Livermore directly through Pleasanton, serving Santa Rita, Pleasanton and Livermore, locally and in connection with other points on its lines.

Granted by Decision No.16012, in Application No.12524, dated February 16, 1926:

(1) Between Stockton and Croveland, Stockton and Sonora, and Sonora and Tuolumne and intermediate points over the following routes:

Over the Mariposa County road between Stockton and Valley Home; over the county road between Valley Home and Oakdale; over the State highway between Oakdale and Orange Blossom; over the county road between Orange Blossom and Knight's Ferry; over the State highway between Knight's Ferry and Chinese Camp via Keystone; over the county road and the State highway between Chinese Camp and Jamestown; and over the Big Oak Flat Road between Chinese Camp and Groveland.

(2) Between Groveland and Carl Inn in the summer period.

(3) A through service between Stockton and Carl Inn and intermediate points via the existing route through Groveland, as a consolidation of the two routes previously described.

Granted Herein:

(1) Between Redco and Vallejo and between Crockett and Vallejo, via Shortway and Morrow Cove, and ferry boats operating between said points, in connection with applicant's consolidated operations.

(2) Between Oakland and Sacramento, and intermediate points now served, via Vallejo.

(3) Between San Francisco and Oakland, in connection with applicant's consolidated operations, and subject to the exceptions hereinabove set forth.

Provided, however:

(1) That the consolidation of the route between Oakland and Napa shall be without prejudice to the determination of pending proceedings affecting said operative right;

(2) That the route between Pinole and Martinez, via Franklin Canyon, is excluded from this consolidation, this decision being made entirely without prejudice as to the determination of all questions affecting said route;

(3) That this decision excludes all matters affected by Applications Nos. 5928, 6114 and 10913, and the so-called Morse lines leased to applicant pursuant to Decision No. 14917, Application No. 11004, being rendered without prejudice to the

future consolidation of any operative rights granted therein.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FURTHER DECLARES that public convenience and necessity require the consolidation and unification of the operative rights of said California Transit Company as one unified system of through service for the transportation of express upon its passengers cars only, (subject to a uniform maximum weight limit of 100 pounds per package applicable throughout the system except where express rights do not exist), between all the termini and intermediate points served by and along its present several routes, in this order last hereinabove described, except that no right to transport express is herein granted over or along the following routes, either as separate routes or as part of applicant's consolidated system, to wit:

- (a) Between Oakland and Martinez and intermediate points
- (b) Between Oakland and Marys and intermediate points
- (c) Between Oakland and Vallejo and intermediate points
- (d) Between Vallejo and Sacramento and intermediate points.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to said California Transit Company consolidating and unifying the operating rights and routes hereinabove described, permitting said California Transit Company to operate the same as one unified system and authorizing the operation of through service for the transportation of passengers and baggage between all termini and intermediate points served by and along its present several routes or operative rights hereinabove described, and authorizing the operation of through service for the transportation

of express between all the termini and intermediate points served by and along its present several routes or operative rights hereinabove described, except the following, to wit:

- (a) Between Oakland and Martinez and intermediate points
 - (b) Between Oakland and Mary and intermediate points
 - (c) Between Oakland and Vallejo and intermediate points
 - (d) Between Vallejo and Sacramento and intermediate points,
- subject to the conditions hereinafter set forth.

IT IS HEREBY FURTHER ORDERED that said California Transit Company be and it is hereby authorized to establish and put into effect immediately the rates, fares, rules and regulations applicable to and governing the transportation of passengers, baggage and express over and throughout its consolidated system, (being limited as to express as hereinabove set forth), which were proposed herein by said applicant, including a fare of 25¢ per passenger for the transportation of passengers between Oakland and San Francisco and the proposed zone basis for express rates as hereinabove authorized.

IT IS HEREBY FURTHER ORDERED that in all other respects said application be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1- That the transportation of express matter within the limit of 100 pounds herein fixed shall be limited to transportation on passenger cars used in the operations of the California Transit Company over the unified system as herein authorized.

2- Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof.

3- Applicant shall file, in duplicate, within a period of not to exceed thirty (30) days from the date hereof tariff of rates, fares and time schedules, such tariffs of rates, fares and time schedules to be similar to those submitted by applicant at the hearing of this application, or rates, fares and time schedules satisfactory to the Railroad Commission; and shall commence operation of said service within a period of not to exceed thirty (30) days from the date hereof.

4- The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5- No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant 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 the date hereof.

Dated at San Francisco, California, this 28th day of March, 1927.

Edmund G. ...
H. B. ...
C. ...
Leon ...
Thos. ...
COMMISSIONERS.