

ORIGINAL

Decision No. 18879

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of PICKWICK STAGES SYSTEM, a corporation, for a certificate of public convenience and necessity to extend and operate its automobile stage service as a carrier of passengers, baggage and express; (1) on an alternative routing, turning off from the main highway, Los Angeles - San Francisco Coast Route, at Pismo Beach, going through Oceano and returning to main highway about three miles north of Pismo Beach; (2) a re-routing on highway between Eureka and Big Bar to conform to new highway construction; and (3) abandonment of that portion of the highway between San Diego and El Centro which lies between San Diego and the junction of the Campo road with the present State highway via Descanso, which junction is at a point known as Hi-pass; and (4) re-routing of Inland Route operations between San Diego at Bonsall; and (5) re-routing of Descanso line at Hi-pass and Warren's Ranch.

APPLICATION NO. 13766.

Warren E. Libby and Frank B. Austin, for applicant..

Kidd, Schell & Delamar, by Gerald F. Delamar, for C. H. Pennoyer, Protestant.

F. E. Watson and A. D. Hagaman, for Southern Pacific Railroad Company, Protestant.

BY THE COMMISSION:

O P I N I O N

In the above numbered proceeding Pickwick Stages System, a corporation, makes application to the Railroad Commission for authority (1) to provide alternate routing through Pismo Beach

and other points; (2) to change routing on its Big Bar - Orleans service in Humboldt County; (3) to abandon operations between San Diego and Hi-pass via Potrero and Campo; (4) to change routing near Bonsall between Bonsall and Oceanside; and (5) to re-route its Descanso line between Buckman's Springs and Newtown (as amended at the hearing).

Public hearings herein were conducted by Examiner Williams at San Diego and Los Angeles.

Because of opposition on the part of protestant Southern Pacific Railroad, applicant moved to dismiss, without prejudice, that portion of its application relating to a change of route and additional points of service between Pismo Beach and Halcyon.

Applicant proposes to re-route its service over the Eureka and Big Bar - Orleans route by adopting a newly constructed highway following the Trinity River into Hoopa, thus eliminating two stations previously served, known as Bald Mountain and Bairs. It was the testimony of Howard Morgan, assistant traffic manager of applicant corporation, that this change is in the interest of the traveling public, because the new road is constructed over comparatively easy grades, while the old road is rather steep in places and very narrow, and presents somewhat hazardous operating conditions where it passes over the summit of Bald Mountain. Mr. Morgan also testified that the old road would not be longer kept up by Humboldt County, and that all of the traffic through this section has been diverted to the new road. He further testified that while Bald Mountain and Bairs were fare points on the line, the records of the company do

not disclose any business to or from these points. This operation is isolated from competition with any other carrier and there appears to be no reason why the change of routing as applied for should not be granted, for the comfort and safety of the traveling public.

The re-routing between Bonsall and the bridge over the San Luis Rey River, according to the testimony of Mr. Morgan, eliminates no community heretofore served by applicant, and merely diverts the traffic from an unimproved road, which went by a circuitous route to an old bridge, to the new road, which is direct between Bonsall and the river crossing, and a new concrete bridge, without inconvenience to the public. There appears to be no reason why this change also should not be authorized.

The remaining portion of the application relates to the abandonment by applicant of its through and local service between San Diego and Hi-pass over the route via Spring Valley, Jamul, Dulzura, Potrero and Campo. One schedule of applicant, leaving San Diego at 1:00 p. m. daily, is operated over this route, connecting at Hi-pass with the main line operations of applicant via Descanso. Through service to El Centro, with local service between San Diego and the point of junction, is also conducted by applicant. The right to operate over this route was acquired by applicant under Decision No. 5345 on Application No. 3663, dated April 29, 1918. The same decision gave applicant the right to operate between San Diego and Descanso via El Cajon, and subsequently this operation was extended over the Imperial County highway to El Centro. Applicant now operates two

through schedules daily to El Centro by way of Descanso, and one daily via Dulzura and Potrero. Since the original grant, the highway by way of Descanso has been paved, while the southern route via Dulzura remains unimproved. The southern route goes through the San Ysidro Mountains, has many grades and curves, and at a point where it crosses Cottonwood Creek is frequently difficult, if not impossible, to traverse. Applicant desires to abandon all its through and local service by this route as far as Hi-pass, on the ground that the local business does not justify an alleged costly operation over this route, and seeks permission to divert its schedule to the northern route via Descanso. At the time this operative right was granted to applicant, this was the only through route to Imperial Valley points, and it has been served continuously by applicant since 1918. During this time applicant has acquired the operations conducted by others over the same route, and for several years has been in undisputed possession of the entire service, except for certain restricted passenger rights granted to J. H. Cottrell and recently sold by Cottrell to Hubert Mills.

Applicant urges as reasons for permitting this abandonment the fact that during the calendar year 1926 the local traffic over this route aggregated only 171 passengers in both directions; that the route is objectionable to the through passengers, many of whom regard it as somewhat dangerous, and, because of the curves, some complain of car sickness; also that the operation is more costly than over the paved highway, and that it is not practical longer to operate 25- to 29-passenger stages over it.

The local traffic figures as presented in the application were corrected by an exhibit filed by applicant (No. 5), showing the total business of the operation from August, 1926, to January, 1927, inclusive. This exhibit shows that during this six months' period 100 passengers were received and discharged at local points, while 3009 passengers were carried in both directions on through tickets, 'through' meaning to or from points beyond the junction of the roads at Hi-pass. The receipts from local service during this period were \$229.85, and the receipts from through service \$11,760.07. Assuming that the showing for six months is typical of the year's operation, this schedule has earned approximately \$24,000 gross per year, of which amount only approximately \$475.00 accrued from local traffic. There is no contention on the part of applicant that the schedule itself is unprofitable, but rather that it is useless to continue it over this unimproved route when there is a better, though not shorter, route via Descanso, which is used by applicant's through operations.

The granting of the application was protested by C. H. Pennoyer, operating a stage line under certificate of this Commission between San Diego and Descanso and Alpine. This protest is based largely on the ground that if the schedule is re-routed via Descanso, it will precede a schedule now maintained by protestant leaving San Diego at 2:30 p. m., and will deprive this protestant of a certain amount of business now accruing to him. Protestant does not operate at all over the route proposed to be abandoned, and his protest is based upon the possible injury which the re-routing, if permitted, will do to his afternoon schedule. The fact remains, however, that

applicant now possesses full freedom to duplicate, if it so elects, the schedule now operated over the southern route, over the northern route, or any other schedule it may wish to establish, without further consent from this Commission. We believe the protest of Mr. Penoyer is not well grounded. The question of the discontinuance of applicant's service via Dulzura must be judged wholly in its relationship to the public along this route, and not along the northern route.

Protestant produced several witnesses residing along the southern route, who testified in opposition to discontinuance of the service. W. N. Humphries, living near Campo, testified that while he himself does not use the stage at all, and has used the service of the San Diego & Arizona Railway, which serves Campo, only twice, he believed applicant's service ought to be maintained for the benefit of others. He estimated that there is in Campo and within a radius of five miles thereof, a population of 500.

Christian Nelson, operating a dairy farm at Potrero, testified that there are approximately 150 inhabitants in the Potrero district, that he had used the Pickwick stage once in the last six months, that he had traveled with Mills a few times, sometimes paying him and sometimes not. He further testified that if the stage continued in operation he would use it about twice a month.

C. A. Camp, a farmer at Dulzura, testified that there are 42 registered voters in the Dulzura precinct; that he had used the Pickwick stages a few times; that once he rode with Mills on his truck, but was not asked to pay any fare, Mills informing him that he was not permitted to haul passengers for hire.

James A. Warren, proprietor of a ranch and hotel east of Campo, testified that not very many persons who come to his hotel use the stage, nearly all using their own cars. He fixed the number who use the stage coming and going as 10 or 12 a month. His hotel at present is open for rooms only and serves no meals. He testified that he uses the rail service to and from San Diego.

Applicant suspended operations on this southern schedule early in February of the present year, and at the time of the hearing had not resumed any operation. No authority from this Commission to cease the operation, or discontinue it for the period admitted, was shown by applicant. The operation covers a distance of 67 miles. The reason given for the suspension is the washing out of a bridge over Cottonwood Creek early in February, requiring the construction of a detour, with a temporary crossing of the creek, which made it necessary for stages to make a difficult turn on each side of the creek and proceed across its bed. It was the contention of Mr. Morgan and Mr. Lester Mershon, superintendent of the Southern District of applicant, that ever since the bridge went out, operation of the large vehicles used in the service has been impracticable over this route. It was the equally positive testimony of the witnesses produced by protestant Pennoyer, including the testimony of Mr. Pennoyer himself, that the road is traversable, that it is not dangerous, that a great deal of traffic uses the road at the Cottonwood Creek detour, including various private trucks and the trucks of the Borderland Express, a freight service operating under authority of this Commission between San Diego and -

El Centro. Mr. Pennoyer, who is an experienced stage operator, testified further that the road was safe for stages of 11-passenger capacity. It was admitted by all parties that the Cottonwood Creek portion of the road is frequently made difficult, if not impassable, by heavy rains, and that several times in the past twelve years it could not be crossed.

It is further urged by applicant that the southern route will not be left without means of public transportation, because of the service maintained by Mills between San Diego and Tecate through Dulzura and Potrero, and also the service of Campo by the San Diego & Arizona Railway, which operates two schedules each way through Campo. Under the certificate granted to Mills, he is authorized to transport passengers only on the vehicles used by him in the transportation of freight or the U. S. mails. He is not now the contractor for the transportation of mails and operates no stage. The small truck he uses has but one seat in the driver's cab for passengers. The railroad operation to Campo is standard and there is a morning and evening schedule in each direction. Withdrawal of applicant's service from this route, therefore, would leave the public dependent upon Mills and the railroad for transportation service.

Another point served by applicant, Spring Valley, about nine miles from San Diego, is now also served by Fred Sutherland under Decision No. 18717 on Application No. 13617, dated August 16, 1927. It appears that no stage lines serve Jamul, except applicant's, and no witnesses were produced from this point. Applicant's Exhibit No. 5 shows 23 passengers to and from this point in the six months' record.



The question, therefore, is whether the service remaining is adequate for the patronage now available for any stage operation. We believe the record is entirely clear that the Pickwick service has not been patronized to such an extent that this Commission would be justified in requiring its continuance, even with a small car, as a purely local service.

Assuming that applicant has shown affirmatively that the local traffic along the route is, of itself, unprofitable, the fact still remains that the entire operation, including through business, is profitable. Exhibit No. 5 shows that over 6000 passengers use this schedule annually, and the proof is not sufficient to assume that they prefer another routing. This service has been maintained by applicant for nine years, or more, and applicant has resisted all attempts of Cottrell and Mills to expand their passenger privileges, protesting even in May, 1926, such expansion when Cottrell sought it by Application No. 8160 (Supplementary). Yet in the following February this service is entirely withdrawn by applicant, due to temporary difficulties, and has since been entirely abandoned, without authority from this Commission. The assumption of applicant that a passenger service consisting of one seat in the cab of a freight truck is adequate, is rather doubtful, especially as applicant has repeatedly urged its own efficient service to maintain restrictions on its competitor. Were Mills a participant in the present proceeding, offering better facilities than he is now restricted to, the situation might be materially altered; but the record as to his intentions is silent. In addition, applicant is in the attitude of abandoning all of its service, not only locally but to Imperial

Valley by this route, for many months without authority, and inferentially, asks approval of this neglect of its duty to those patrons whom, though few, it has for many years insisted that it alone be permitted to serve without restraint. A similar fact exists as to the re-routing between Buckman's Springs and Newtown, applicant having for a long time abandoned service via Warren's Ranch and transferred its operations to the new road. Such abandonment is important, because it withdraws, without authority, service from points where it has been established, and it cannot be condoned because temporary difficulties may justify temporary changes.

Applicant also desires to re-route its operation between Buckman's Springs and Newtown. The route now proceeds from Buckman's Springs in a southerly direction to a point called Dewey, about one mile north of Campo, and thence easterly by way of the Indian agency to Newtown. A new road has been constructed between Buckman's Springs and Newtown by way of La Posta, which shortens the distance several miles. No protest was made to this alteration of route, except by Mr. Humphries, who expressed the opinion that the service ought to be maintained, even though it has not received local patronage. There seems to be no objection to authorizing the abandonment and re-routing proposed in this portion of the application.

Protestant Pennoyer sought to show that applicant is serving Descanso without proper authority, but this matter is extraneous to the present proceeding.

We therefore find as a fact, upon the record herein, that applicant has shown good cause for all the changes pro-

posed by it except the abandonment of service between San Diego and Newtown (near a point called Hi-pass), which should, in the absence of any other adequate service, be denied. An order will accordingly be entered.

#### O R D E R

Pickwick Stages System, a corporation, having made application as above entitled, public hearings having been held, the matter having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that applicant Pickwick Stages System, a corporation, be and it is hereby authorized to change the routing of its stages, as applied for, as follows:

By abandoning the authorized route on its Big Bar-Orleans line from Eureka via Bald Mountain and Bairs, and adopting the new county road via Redwood House, Willow Creek and Hoopa, and it is hereby authorized to cancel its rates heretofore filed for Bald Mountain and Bairs.

By abandoning the authorized route between Bonsall and San Luis Rey River on its Los Angeles-San Diego inland route, and adopting in lieu thereof the new paved county highway between said points and crossing San Luis Rey River at the new bridge.

By abandoning the authorized route between Buckman's Springs and Newtown on its San Diego-El Centro route, and adopting the highway between said points via La Posta; and it is hereby authorized to cancel its rates heretofore filed for Warren's Ranch and other points on its abandoned routing.

IT IS HEREBY FURTHER ORDERED that applicant immediately restore its schedule and operation between San Diego and El Centro via Dulzura and Campo.

IT IS HEREBY FURTHER ORDERED that that portion of the application herein seeking a certificate of public convenience and necessity to operate a new service south of Pismo Beach to Pismo Center, Oceano and Halcyon, be and the same hereby is dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same hereby is denied.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of October 1927.

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*Chas. E. ...*  
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*Leon ...*  
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*Thos. ...*  
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*M. A. ...*  
Commissioners.