

Decision No. 19300

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of CALIFORNIA TRANSIT CO., a corporation, (a) to change its route between Manteca and Ripon, (b) to change its route between Stockton and Galt, (c) to change its route between Colledgeville and Oakdale, (d) to change its route between Tracy and Mossdale, (e) to suspend or abandon its operative rights between Los Banos and Chowchilla, (f) to suspend or abandon its operative rights between Fresno and Lemoore via Elm Avenue, (g) to suspend its operative rights between Saugus and Lancaster via Bouquet Canyon, (h) to change its route between Keystone and Sonora and (i) to change its route between Keyatone and Carl Inn.

Application No. 13428.

Earl A. Bagby, for Applicant.

H. W. Hobbs, for Southern Pacific Co. and Central California Traction Co., Protestants.

C. N. Hamblin, for Sierra Railway Co., Protestant.

BY THE COMMISSION:

O P I N I O N

The California Transit Company, a corporation, conducts an automobile stage service for the transportation of persons and property over various routes within the State of California and by this application requests permission to effect changes in certain routes and to abandon others. Nine distinct matters are embraced within the scope of the application and these will be considered in the order of their presentation. Applicant also prays that such new routes as may be granted herein be consolidated

with its existing routes and operated under its tariffs, schedules and rules now on file with this Commission.

The granting of the application was protested in its entirety by Southern Pacific Company whose attorney also entered an appearance on behalf of Central California Traction Company.

Public hearings on this application were held before Examiner Gannon at San Francisco, at which time the matter was submitted and is now ready for decision.

We present herewith the various phases of the application:

I.

Applicant alleges that in the conduct of one of its main line operations between San Francisco and Los Angeles the route originally followed between Manteca and Ripon was via Calla School and thence back to the main highway at Calla Crossing; that approximately three years ago upon the completion of the new highway applicant, with the permission of the Railroad Commission, discontinued the routing of its southbound stages by way of Calla School and routed them direct from Manteca to Calla Crossing, thus shortening the distance by approximately one mile. The Southern Pacific Company protested the granting of this feature of the application contending that it is in effect an application for a new certificate of public convenience and necessity filed under the guise of a rerouting. We do not view it in that light. Resolved into mathematical terms it simply means the traversing of the long side of a right-angled triangle rather than the two short sides and upon improved highway over the entire distance. The testimony shows that there is no demand for continued service via Calla School hence no ground for protest on that score can be advanced. There appearing sufficient reason for the rerouting as prayed for this portion of the application will be granted.

II.

The next feature of the application involves operative rights between Stockton and Sacramento with particular reference to Lodi service. Applicant alleges that because of various changes and conditions necessitating increased and different stage operations over this route it did, on March 22, 1926, make written application to the Railroad Commission for permission to change the route for a portion of the service between Stockton and Sacramento with particular reference to the service to be furnished Lodi and Woodbridge, and received permission to make such change by informal letter of March 25, 1926. The letter referred to authorized applicant to establish new through schedules between Stockton and Forest Lake over Cherokee Lane road omitting service to Lodi except for flag stop on the main highway, and also between the same points via Henderson and Lodi with service to the latter point. Applicant alleges that since receiving said permission from the Railroad Commission it has conducted its operations as follows: (1) via Cherokee Lane road from Forest Lake to Lodi, via Henderson, to Stockton and reverse; (2) via Forest Lake to Woodbridge, to Lodi, to Henderson, and Stockton and reverse; (3) via Cherokee Lane road to Forest Lake, to Stockton direct and reverse with no service to Lodi except on flag stop. It should be noted that at the time of receiving notice as above referred to Henderson, Woodbridge and Lodi were served by all stages of applicant.

Applicant now asks the Commission to grant it a certificate of public convenience and necessity to operate over each of the above routes. This feature of the application was vigorously protested by Southern Pacific Company upon the assumption that California Transit Company never had the right to serve Lodi and that authority so to do could only be granted upon full showing, in an appropriate proceeding, as to the necessity for such service.

This protestant in its own behalf, as well as in behalf of Central California Traction Company, endeavored to show by oral testimony and exhibits that Lodi was now being adequately served by these two rail lines. We have made a careful examination of the files and records of this Commission and submit herewith an outline of the developments which lead up to the exercise of this right by applicant.

The original right to serve Lodi was held by Star Auto Stage Association by reason of its good faith operation prior to May 1, 1917. Acting in accordance with General Order No. 47 Star Auto Stage Association filed its tariffs and time schedules in February, 1917, and in these original tariff filings Lodi appears as an intermediate point to be served. Service was actually given to Lodi under this tariff and apparently has been rendered uninterruptedly ever since. Lodi also appears in a subsequent tariff of Star Auto Stage Association filed in March, 1918. Lodi next appears as an intermediate point between Sacramento and Stockton in a supplement to California Transit Company's tariff filed September 3, 1921. The next tariff filing of applicant company on July 22, 1922, also shows Lodi as a point to be served, and continuously thereafter Lodi is included in tariff filings.

By virtue of Decision No. 7795, Application No. 5162, the operative rights of Star Auto Stage Association over the route from Stockton to Walnut Grove, on which line Lodi had appeared as an intermediate point prior to the jurisdiction of the Commission, were transferred to E. M. Easton who was directed to file tariffs and schedules covering operations over this route. This route was finally disposed of to another operator and reference to the decision is made herein merely for the purpose of pointing out that Lodi was served by the Star Auto Stage Association

on the Walnut Grove local run as well as on the Stockton to Sacramento route. In Decision No. 8150, Application No. 5163, authority was given to Star Auto Stage Association to transfer all of its operative rights to Star Auto Stage Company and included the operation between Stockton and Sacramento with service to Lodi as an intermediate point. Star Auto Stage Company subsequently had its name changed to California Transit Company, the applicant herein, so that whatever rights were held by the old Association are now owned and controlled by applicant.

We believe the decisions and tariff filings above referred to unquestionably establish applicant's right to serve Lodi as a point on its operative right between Stockton and Sacramento.

The other question to be determined is as to applicant's right to operate its stages between Lodi and Forest Lake over the Cherokee Lane road, a distance of six miles, which route is now used in conformity with informal authority granted by the Commission in its letter to applicant of March 25, 1926. Since operation over this route permits of through service over an improved highway it is clearly in the public interest that it be continued. Accordingly we shall find that public convenience and necessity require the operation of applicant's stages over the Cherokee Lane road between Forest Lake and Lodi on its service direct to Stockton.

III.

The application of California Transit Company further recites that as the result of Decision No. 16012, Application No. 12524, it acquired the operative rights of Yosemite Transit between Stockton and Oakdale, and that stage service over such route had been conducted by its predecessor both via Valley Home and Escalon. There having arisen some question as to the inclusion of the Escalon route in the transfer to Yosemite Transit, applicant now requests a certificate of public convenience and

necessity to operate a portion of its service via Escalon. Protestant Southern Pacific Company challenges applicant's right to serve Escalon and demands that it make the usual showing of public convenience and necessity. An examination of Decision No. 7795, above referred to, discloses that there was transferred back to R. R. Young certain prior operative rights which he had theretofore transferred over to the old Star Auto Stage Association; that in delineating the routes from Stockton to Groveland so transferred no mention is made of the Escalon route though the Valley Home route is described in some detail. The omission may be accounted for by the fact that for several years the Escalon route was practically impassable and had to be abandoned on account of bad roads. This condition continued until 1922 when the road was improved and Young resumed operation over the Escalon route and service over that route has been continuously rendered since that time. Applicant's contention is that there were two separate and distinct prior rights, one by way of Escalon, and one by way of Valley Home, both acquired by Young from the old Association and subsequently by him transferred to applicant. From the language of the decision we are not quite clear as to just what it was intended to convey, nor do the tariff filings throw much light on the situation. It may be true that two routes between Stockton and Groveland and Stockton and Sonora are designated, and that one route failed to include Escalon, but the language of the decision unquestionably admits of two different constructions. However, we feel that sufficient showing has been made herein to justify the issuance of a certificate of public convenience and necessity to permit the routing of a portion of applicant's service via Escalon and the order will so show.

IV.

The next portion of the application here being considered deals with the route between Tracy and Mossdale originally acquired by applicant from Star Auto Stage Association. Applicant alleges that operation over this route had formerly been conducted by way of Banta but that owing to a re-alignment of the highway Banta has been eliminated from the main travelled road, and it is therefore desired that authority be granted to route all stages over the new road. Applicant has been operating over the new route for three years last past upon oral permission from the Commission, so it alleges. We can see no objection to the granting of this request. The new route eliminates a bad situation at Banta where it was with some difficulty that stages could be manipulated around sharp corners and curves. It shortens the distance and traverses a more direct route. The testimony shows that there is no occasion to serve Banta and that there has been no complaint from that community in three years of operation over the new route. The application will be granted.

V.

Applicant next refers to the route between Fresno and Los Banos via Chowchilla, an operation sanctioned by this Commission in its Decision No. 14886 on Application No. 10680, and now requests authority to abandon its operative rights between Los Banos and Chowchilla. Upon representations made by applicant in a letter dated July 1, 1926, that there was no demand for service between these two points, this Commission granted applicant authority to suspend, temporarily, such service until December 31, 1926. It appears from the testimony that the route was originally operated with the hope in view that there might be some demand developed

for service between the Merced-Fresno highway and certain Pacific Coast points via Los Banos, but this route was not then developed and local service over the route in question was not self sustaining. An exhibit introduced in evidence shows as the result of a check by applicant covering a period of 28 days that only ten passengers used the route in either direction, the operating revenue being less than one cent per mile. These could have been taken care of either via Fresno or Merced. It is contended that the only effect of this order, if granted, would be the suspension of the operation from Chowchilla to Chowchilla Road Junction, a distance of 12 miles through a cattle range country, the remainder of the route being served under other operative rights. We find no objection to the granting of the request and the order will show that authority is given applicant to abandon this service.

VI.

Another feature of the application has to do with service between Fresno and Lemoore via Elm Avenue, a right acquired by applicant from Pickwick Stages System. The application recites that this Commission granted authority to applicant to temporarily suspend said service, upon a proper showing, and that circumstances now require the further suspension or abandonment of the route in question. The evidence indicates that this portion of the route acquired by applicant from Pickwick Stages has never produced sufficient revenue to make it a profitable operation and its withdrawal would work no hardship since the territory is otherwise adequately served. Service to Armona and Lemoore is now rendered by applicant on its Hanford to Coalinga right, which parallels the Elm Avenue route, at a distance of five or six miles, from Fowler to Hanford.

There appears to be good reason for this change and the order following will authorize applicant to abandon operation

of its service between Fresno and Lemoore via Elm Avenue.

VII.

It is further alleged in the instant application that applicant acquired from Motor Transit Company an operative right for the transportation of persons and property between Los Angeles and Mojave via Bouquet Canyon. As in other instances above cited, upon written application to the Commission applicant was given permission to temporarily suspend the operation via Bouquet Canyon and now seeks authority for further suspension for the period of one year. Temporary suspension was authorized upon a showing that operation over the alternative Mint Canyon route was desirable and was being regularly rendered by applicant. A 30 day check during May and June of 1926 showed an average daily revenue of \$2.73 derived from a daily average of 1.66 passengers. According to the testimony the road via Bouquet Canyon is rough and mountainous and not well adapted to stage travel while Mint Canyon has a paved state highway and is the logical route through from Saugus to Lancaster. We regard the route by way of the Bouquet Canyon as more or less of a duplication of the Mint Canyon service and over a road infinitely ^{less} desirable for public travel. The evidence warrants a permanent abandonment of applicant's operative rights between Saugus and Lancaster via Bouquet Canyon and this will be included in the final order.

VIII.

The next feature of the application involves operative rights between Keystone and Sonora and the abandonment of Chinese Camp on this run for the more direct route from Yosemite Junction north. The record shows that originally service between Keystone and Sonora was rendered both via Chinese Camp and direct, but

that eventually the Chinese Camp route was abandoned. The situation here presented is similar to the Manteca-Ripon route under "I" and involves the traversing of the long side of a right-angled triangle rather than the two short sides. The distance from Yosemite Junction to Chinese Camp is 3.7 miles and from Chinese Camp back again to the main highway is 3.6 miles while the more direct route from the point of departure back to the highway is 3.1, a saving of over 4 miles, in addition to an improved road condition. It is alleged in the application that temporary authority was given applicant's predecessor in interest to operate over the direct route and that the improvement of the route some two years ago made that the more feasible and practicable route for future travel. There can be no complaint from Chinese Camp because that point will continue to be served more adequately by way of Yosemite Junction to Sonora and by Groveland service in the opposite direction. The only true abandonment would be the 3.6 miles between Chinese Camp and the main highway. A careful review of the evidence and exhibits convinces us that the operation here asked for is desirable and accordingly a certificate of public convenience and necessity will issue.

IX.

The next change of route requested by applicant is a deviation on its Keystone to Carl Inn route so as to give service to Moccasin Creek. Temporary authority was given in 1923 to Yosemite Transit, the then owner of the route, to temporarily deviate from its course and give service to Moccasin Creek, where there had recently been established a large power plant, at the same time routing other of its stages through and avoiding service

to Moccasin Creek. There is no railroad or other service to this point and obviously there is need for some sort of transportation for laborers and supplies.

We can see no objection to the operation here sought and in fact believe that the alternative route asked for is not only desirable but necessary. Accordingly, the order will show that public convenience and necessity require the granting of the certificate here prayed for.

Applicant finally requests that the new and changed routes herein granted should be consolidated with its existing rights and operated under the tariffs, schedules, rates and rules of applicant now on file with this Commission. This prayer of the applicant will be granted, the Commission being of the opinion that such changes as are herein authorized will result in greatly improved service to the travelling public.

O R D E R

A public hearing having been held in the above entitled application, the matter having been submitted and the Commission being now fully advised and basing its order on the findings of fact which appear in the foregoing opinion,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by California Transit Company of automobile stage service over the following routes:

- I. Between Manteca and Ripon via Calla Crossing direct instead of via Calla School;
- II. Between Stockton and Sacramento by way of the following routes: (a) via Forest Lake to Woodbridge, to Lodi, to Henderson, to Stockton and reverse; (b) via Cherokee Lane road from Forest Lake to Lodi, to Henderson, to Stockton and reverse; (c) via Cherokee Lane road from Forest Lake to Stockton direct and re-

verse, omitting service to Lodi except for flag stop on main highway.

- III. Between Stockton and Oakdale both via Valley Home and Escalon.
- IV. Between Tracy and Mossdale via the direct new route instead of via Banta.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby further declares that public convenience and necessity require the abandonment by California Transit Company of automobile stage service over the following routes:

- V. Between Fresno and Los Banos via Chowchilla;
- VI. Between Fresno and Lemoore via Elm Avenue;
- VII. Between Los Angeles and Mojave via Bouquet Canyon.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby further declares that public convenience and necessity require the operation by California Transit Company of automobile stage service over the following routes:

- VIII. Between Keystone and Sonora via Yosemite Junction and Jamestown direct instead of via Chinese Camp;
- IX. Between Keystone and Carl Inn so as to route a portion of its service via Moccasin Creek by deviating from the main line at a point easterly of Stevens Bar and returning thereto at a point westerly of Priest's Station.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby further declares that public convenience and necessity require the consolidation of the new routes herein granted with the present existing routes of applicant to be operated under tariffs, schedules, rates and rules of applicant now on file with this Commission, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to California

Transit Company for the establishment and operation of the services hereinabove described, subject to the conditions hereinafter set forth:

1. The operating rights herein authorized are not to be considered by California Transit Company as separate operating rights, but are to be operated in conjunction with and as a part of existing rights.
2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
3. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, such tariff and time schedule supplements as are necessary to comply with this order and the Commission's Tariff Circular No. 79.
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.

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

Dated at San Francisco, California, this 30th day of

January, 1928.

Leon A. White
D. S. Seaver
Ernest E. Cook
John D. Loutch
W. H. Linn
Commissioners.