

Decision No. 19530

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
 the PICKWICK STAGES SYSTEM, a corpor- )  
 ation, and E. C. CRAIG, for the former )  
 to lease to and the latter to hire )  
 from, certain operative rights of )  
 the former for the transportation of )  
 passengers and express matter between )  
 Buellton and Los Olivos and inter- )  
 mediate points, including Solvang and )  
 Santa Ynez. )

ORIGINAL

Application No. 14049.

SOREN SORENSON, )  
 Complainant, )

-vs-

Case No. 2450.

PICKWICK STAGES SYSTEM, and )  
 E. C. CRAIG, )  
 Defendants. )

Warren E. Libby and Frank E. Austin, for Pickwick Stages System and E. C. Craig, Applicants.

Coleman E. Stewart, for Complainant and Protestant.

BY THE COMMISSION:

O P I N I O N

On September 6, 1927, the Pickwick Stages System filed with this Commission the above Application No. 14049, praying that it be permitted to lease to E. C. Craig a certain operative right for the transportation of passengers and express between the towns of Buellton and Los Olivos in the county of Santa Barbara. A hearing thereon was held September 19, 1927. At that hearing

Soren Sorenson, complainant in the above Case No. 2450, protested the granting of the application of the Pickwick System to lease such route to Craig, and offered to introduce evidence to the effect that the Pickwick System had abandoned all service thereon. Such evidence was excluded on the ground that it constituted a collateral attack upon the validity of the existing operative right, the protestant being advised that the question of abandonment could be raised only in a direct proceeding. On October 4, 1927, the Commission issued its Decision No. 18885, granting said application to lease.

Subsequently Soren Sorenson filed the above entitled complaint against the Pickwick System specifically alleging abandonment of such operative right. The Commission thereupon issued its order reopening the above application for further hearing. The two matters were consolidated and a public hearing held thereon before Examiner Rowell on January 31, 1928.

We are of the opinion that the evidence introduced by Complainant Sorenson was not of sufficient weight to justify a finding of abandonment and the issuance of an order revoking such operative right. We are convinced, nevertheless, that, in view of the evidence offered by complainant, as well as the declarations of the Pickwick System itself, a lease of such right to Craig should not be permitted and that the previous order of the Commission granting the above application should be set aside.

The line which the Pickwick System seeks to lease runs from Buellton to Los Olivos via Solvang and Santa Ynez. The application states that this is the operative right granted by Decision No. 10079 on Application No. 7508. That decision, however, granted a right from Solvang to Santa Ynez only and

not the whole of the route in question. The Pickwick System undoubtedly has the right to serve all of the above towns, but such right is derived from Decision No. 14464 which effected a consolidation of most of its various existing operative rights between Los Angeles and San Francisco. It is apparent, therefore, that the right which applicant seeks to lease is only a portion of a larger operative right. This Commission has frequently, in matters involving sales, held that an operative right is indivisible. This principle should apply with equal force in cases where a lease of part of a right is sought. (Decision 11692, 23 C.R.C. 114; Decision 9319, 20 C.R.C. 330; Decision 19412).

Reference to earlier decisions granting certificates to the Pickwick System to operate in this vicinity, reveals that the route over which the stages were at one time operated between Los Angeles and San Francisco traversed the Santa Ynez Valley and included the towns of Solvang, Santa Ynez and Los Olivos. Since the completion of a new highway to the westward all through stages have been routed by way of Buellton, the towns of Solvang, Santa Ynez and Los Olivos being served by a branch line. The reasons prompting Pickwick System to enter into such lease agreement, as set forth in its application, are that such service is essentially local, a branch service only, and that its operation requires the personal attention of one familiar with the needs of the local communities and who is able to operate it more economically. The testimony offered by the complainant and protestant, as well as that of the Pickwick System itself, shows that the demand along this route for express service is negligible. The Pickwick Stages admits that it has been rendering service not more than once a week. Craig, the

proposed lessee, already possesses a certificate for the transportation of passengers and is rendering a daily service over the identical route, so that the only additional service to be assumed by him under the proposed lease is the express service now rendered by Pickwick.

Thus it is apparent that the Pickwick Stages System seeks to lease, for the nominal rental of \$1.00 per year, an operative right which is not now an integral part of its main transportation system, which service it has for several years rendered in a desultory way, and which obviously is financially unprofitable. From its own statements we are compelled to conclude that it desires to divest itself of its obligation to carry passengers and express over a route which has come to be merely a branch of its main transportation system, and, accordingly, we feel that it should make application to abandon such right rather than to lease the same. (See Decision No. 19412). We are of the opinion that ordinarily the public interest will not be served by permitting a lease of an operative right when the owner obviously desires to divest himself of the burden thereof, yet seeks to preserve his certificate <sup>because</sup> of possible future value. If the public need requires that the service be continued and another is ready to render such service, his interest therein should not be limited to that of a mere lessee.

The applicant has questioned the jurisdiction of the Commission to admit, in a proceeding not brought by the Commission itself, evidence attacking the validity of an existing operative right, but that question need not be considered here. The defendant is deprived of no property right. The only question considered is whether public convenience and necessity require that the application to lease be granted or denied.

Accordingly, the complaint in Case No. 2450 will be dismissed and Application No. 14049 denied.

O R D E R

The above entitled application having been heard on September 19, 1927, a decision thereon, No. 18885, rendered on October 4, 1927, and thereafter on January 23, 1928, by order of the Commission, said application being reopened for further hearing, and such further hearing having been had, the matter submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby finds that public convenience and necessity do not require the Pickwick Stages System, Inc. to lease to E. C. Craig an operative right for the transportation of passengers and express between Buellton and Los Olivos, and

IT IS HEREBY ORDERED that Decision No. 18885, dated October 4, 1927, granting the above application No. 14049, be and the same hereby is rescinded, and that said Application No. 14049 now be and the same hereby is denied.

IT IS HEREBY FURTHER ORDERED that the above entitled Complaint No. 2450 be and the same is hereby dismissed.

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

Dated at San Francisco, California, this 30<sup>th</sup> day of March, 1928.

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*C. Sawyer*  
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*W. P. Leland*  
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*W. P. Leland*  
Commissioners.