

**ORIGINAL**Decision No. 19826

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY  
 for authority to establish additional  
 stations and tariff points on its authorized  
 auto stage route between Napa and Santa Rosa,  
 commonly designated as the "Dunham Stage Line." )  
 )  
 ) Application  
 ) No. 14703

BY THE COMMISSION -

OPINION and ORDER

This is an application by Southern Pacific Motor Transport Company, a corporation, for an order of the Railroad Commission authorizing it to establish additional stations and tariff points on the route of the automotive passenger stage and express service it is operating between Napa and Santa Rosa and intermediate points.

Applicant is conducting service as an automotive passenger line between Napa and Santa Rosa under authority of an operating right acquired from the estate of A. Dunham who established the service prior to May 1, 1917. The transfer was approved by this Commission's Decision No. 19170, issued on Application No. 14267.

C.R.C. No. 1 filed by Dunham shows service to intermediate points between Santa Rosa and Napa, the title page reading "between Napa and Santa Rosa and intermediate points." Fares are published to the intermediate points of Caneros, Vineberg, Sonoma, Hot Springs, Eldridge, Glen Ellen, Kenwood, Annadel and Melitta. All tariffs filed by Dunham up to November 3, 1925, carried reference to intermediate point service. Apparently through an inadvertence C.R.C. No. 2, effective that date, did not show, on the title page, service to "intermediate points" though rates are quoted to all the intermediate points named in the original Dunham tariff. This tariff was adopted by Southern Pacific Motor Transport Company when it acquired the Dunham right. It now develops that the intermediate point service has been performed at all times as indicated by the original Dunham

filing and that in addition service has been given to stations designated as Warfield, Beltane and Wildwood, which are intermediates between Glen Ellen and Kenwood; and to Londale and Kearns, intermediates between Kenwood and Annadel.

Applicant proposes to charge fares in accordance with a tariff marked Exhibit "A", a copy of which is attached to the application herein and made a part thereof. The rates proposed are lower than the rates heretofore charged.

The instant application is filed by Southern Pacific Motor Transport Company mainly for the purpose of eliminating any doubt as to its authority to serve points intermediate between Napa and Santa Rosa, with particular reference to Warfield, Beltane, Wildwood, Londale and Kearns, which doubt was created by <sup>faulty tariff filing by</sup> its predecessor in interest.

In view of the situation as described by applicant and the further fact that no other transportation companies (except Southern Pacific Railroad, of which applicant is a subsidiary), will be affected by the order requested, we are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted. In our opinion the situation will best be met by the issuance to Southern Pacific Motor Transport Company of a certificate of public convenience and necessity authorizing applicant to serve intermediate points between Napa and Santa Rosa, including the points of Warfield, Beltane, Wildwood, Londale and Kearns, not as a separate operating right but as part of the Napa-Santa Rosa right acquired from the estate of A. Dunham.

Southern Pacific Motor Transport Company is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any

respect limited to the number of rights which may be given.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the operation  
by Southern Pacific Motor Transport Company, a corporation, of an  
automotive service for the transportation of passengers and express  
between all points intermediate between Napa and Santa Rosa along  
the route served by said Southern Pacific Motor Transport Company  
under authority of a certificate of public convenience and necessity  
acquired from the estate of A. Dunham, said intermediates to include  
the points of Warfield, Beltane, Wildwood, Londale and Kearns, and

IT IS HEREBY ORDERED that a certificate of public convenience  
and necessity for such a service be and the same is hereby granted  
to Southern Pacific Motor Transport Company, subject to the following  
conditions:

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

2- Applicant shall file, in duplicate, within a period  
of not to exceed twenty (20) days from the date hereof,  
tariff of rates, such tariffs to be identical with those  
attached to the application herein, or rates satisfactory  
to the Railroad Commission, and shall commence operation  
of said service within a period of not to exceed twenty  
(20) days from the date hereof. Applicant shall also  
file time schedules covering service between all points  
named in said tariff.

3- 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.

4- 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 29<sup>th</sup> day of May, 1928.

*Leon C. ...*  
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COMMISSIONERS.