

Decision No. 20306

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JAMES R. PROPER for certificate of)
public convenience and necessity to) Application No. 14664
operate passenger auto stage service)
between Los Angeles, Mojave, Hampton,)
Inn City, Osdick, Randsburg,)
Johannesburg and Trona and points)
intermediate Hampton to Trona.)

ORIGINAL

W. H. Powell, for Applicant.
L. C. Merkel, for California Transit Co.,
Protestant.

BY THE COMMISSION -

O P I N I O N

James R. Proper has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile passenger and baggage service between Los Angeles, Mojave, Hampton, Inn City, Osdick, Randsburg, Johannesburg and points intermediate Hampton to Trona.

A public hearing on this application was conducted by Examiner Handford at Mojave, the matter was duly submitted and is now ready for decision.

Applicant, now operating passenger stage service between Mojave and Randsburg, and between Randsburg and Searles under the authority conferred by Decision No. 18867 on Application No. 14017, as decided October 4, 1927, desires to extend his present service by the operation of through service from Los Angeles, by the service of Hampton, Inn City and Osdick as intermediate points between Mojave and Randsburg, and by extending service from Johannesburg to Trona, a distance of 40 miles. It is proposed to charge rates and to operate a schedule of one round trip daily, as set forth on Exhibits A and B as attached to the application herein, using as

equipment six seven-passenger Studebaker touring cars.

Applicant relies as justification for the granting of the desired certificate upon the following alleged facts: (1) that there is public demand and necessity for the establishment of the proposed through service between Los Angeles and the communities at Osdick, Johannesburg, Randsburg and Trona, and (2) that it has been impossible to arrange satisfactory connections at Mojave with the service of California Transit Co.

James R. Proper, applicant herein, testified as to investigation which he had made regarding the desire of the public for through service between Los Angeles and Randsburg, Johannesburg and Trona; that from such investigation he estimated a daily through patronage of from 5 to 7 persons; that his efforts to coordinate his schedules with the Bakersfield-Mojave-Los Angeles service of the California Transit Co. had been unsuccessful and that patronage which should be handled by public transportation facilities was being diverted to privately owned cars. Witness owns all his equipment and is financially able to establish the proposed through service and to increase equipment and schedules if the traffic demands increased service.

W. L. Seeley, interested in mining properties in the Ballarat district, thirty miles northeast of Trona, testified regarding trips to Los Angeles averaging three per month. Witness now uses his own car, but if through service were available would prefer using same, it being cheaper than the cost of driving his own conveyance. Witness is desirous of having direct through service, but if required to wait for connecting stages at Mojave would prefer and would continue the use of his own automobile.

G. N. Purrington, mercantile manager of the American Potash and Chemical Company at Trona, testified that a through service between Los Angeles and Trona was desirable, not alone for his company employing approximately 600 men, but also for the West End Chemical Company employing 65, Solvay Process Co.,

employing 5, American Magnesium Company employing 28, the Southwestern Lead Company, Panamint Mining Company, Engineers Exploration Company, and Belcher Extension Company, the latter companies each averaging 25 employees when operating. According to this witness the activities of the American Potash and Chemical Company at Trona are increasing, the production has tripled during the past two years, the wage scale has been raised, a more liberal policy has been formulated regarding vacations and it is the desire of the company to seek and hold a better class of employees. The employees when on vacation, invariably desire to visit Los Angeles and the present application is favored by reason of its offering a through stage service.

F. L. Austin, employed at Trona for eleven years, testified that he made trips to Los Angeles and desired the establishment of a through stage line; that the present service requiring a change and delay at Mojave was not satisfactory; and that the rail service in connection with the Trona Railway was inadequate and at unsatisfactory hours.

R. F. Dickinson, mining and civil engineer residing at Randsburg, testified in behalf of applicant stating that he desired and would use the proposed service, his objection to the existing service being directed to the layover required at Mojave.

F. X. Moore, a public accountant at Randsburg, now makes weekly trips to Los Angeles using his own automobile. This witness would make use of the proposed service, if authorized, desiring to have through service and eliminate the trouble and expense of driving his own car.

Albert Aker, President of the Yellow Aster Mining Company, President of the Mercantile Bank of Randsburg and Vice President of the Bank of Tehachapi, testified that he made frequent trips between Los Angeles and Randsburg, using the stage lines; that the present service was not satisfactory due to the enforced layover at Mojave; that a through service without delay was desirable and

would be used, not alone by him but by directors and officials of his companies who now are subjected to the same inconvenience and delay and because of such fact now travel in their own automobiles.

J. S. Mahood, garage owner, F. B. Adams, general merchandise store; and Frank Colton, pool hall proprietor; all of Osdick, testified in behalf of applicant stating that they desired the through service herein sought to eliminate the delay in transfer at Mojave.

Petitions signed by 314 residents of Trona and 45 employees of West End Chemical Company at Trona were received in evidence, such petitions setting forth the need for better transportation service between Los Angeles and Trona and requesting the granting of certificate as herein applied for.

The granting of the application is protested by California Transit Co., operating stage service between Los Angeles and Bakersfield, via Mojave at which point connection is made with applicant's present operated line between Mojave and Randsburg.

Protestant contends that the present stage service between Los Angeles and Mojave, being a portion of its Los Angeles-Bakersfield (via Tehachapi) Division offers ample facilities for the transportation of all passengers originating at or destined to the territory between Mojave and Trona.

From an exhibit filed by this protestant covering travel checks made during representative periods the following data has been compiled:

<u>BETWEEN</u>	<u>MONTH</u>	<u>DIRECTION</u>	<u>AVERAGE</u>	
			<u>PASS.</u>	<u>VACANT SEATS</u>
LOS ANGELES and MOJAVE	Jan. '28	Northbound	1.8*	16.16*
			1.7%	16.29%
	Jan. '28	Southbound	2.26*	15.9*
			3.38%	14.6%

(Cont'd)

<u>BETWEEN</u>	<u>MONTH</u>	<u>DIRECTION</u>	<u>AVERAGE</u>	
			<u>PASS.</u>	<u>VACANT SEATS</u>
LOS ANGELES AND MOJAVE				
Local Schedule	(Jan. '28	Northbound	1.16*	16.8*
	(Jan. '28	Southbound	1.09%	16.9%
	Mar. '28	Northbound	3.00*	15.00*
			2.48%	15.8%
	Mar. '28	Southbound	2.58*	15.4*
			4.03%	13.9%
Local Schedule	(Mar. '28	Northbound	1.51*	24.5*
	(Southbound	2.09%	23.3%
	May '28	Northbound	2.90*	15.4*
			2.60%	15.3%
	Southbound	2.60*	15.4*	
		3.06%	14.9%	
Local Schedule	(May '28	Northbound	1.45*	21.4*
	(May '28	Southbound	1.54%	21.3%

Note: (*) Arriving Mojave.

(%) Leaving Mojave.

The present schedules of California Transit Co. show the following service applicable to Mojave:

<u>Read Down</u>				<u>Read Up</u>			
10:20 A.M.	Lv.	Bakersfield	Ar.	1:45 P.M.			
1:00 P.M.	Ar.	Mojave	Lv.	10:55 A.M.			
6:00 P.M.	1:20 P.M.	Lv.	Mojave	Ar.	10:50 A.M.	5:05 P.M.	
9:35 P.M.	4:55 P.M.	Ar.	Los Angeles	Lv.	7:15 A.M.	1:30 P.M.	

Under this schedule a wait of 2 hours, 10 minutes is required at Mojave for passengers northbound from Los Angeles destined to the desert towns, and of 2 hours, 35 minutes for passengers originating on applicant's line and destined to Los Angeles. A close connection is available for passengers destined to Bakersfield and San Joaquin Valley points but the travel thus accommodated is of slight volume.

Applicant has made several efforts to coordinate his schedules with those of the California Transit Co. but has had no success in establishing the desired through schedules, correspondence having been ignored as regards accomplishment of the desired result. It further appears that the Bakersfield-Los Angeles service of the protestant, California Transit Co. has been reduced since such company acquired the line, due principally to patrons preferring the Ridge Route, also operated by this protestant, which offers a faster trip and has more scenic attractions for the passengers.

After full consideration of the record herein we are of the opinion that the extension of route as herein sought by applicant is justified by the evidence and that in addition to the extension of line between Johannesburg and Trona the through service to Los Angeles should be authorized.

James R. Proper 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.

O R D E R

A public hearing having been held on the above entitled application, the matter having been duly submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the operation by James R. Proper of an automobile stage line as a common carrier of passengers and baggage between Los Angeles and Trona, serving as intermediate points the communities at Mojave, Hampton, Inn City, Osdick, Randburg and Johannesburg, provided, however, that no local service shall be rendered between Los Angeles and Mojave and

points intermediate thereto, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to James R. Proper for the operation of an automobile stage line as a common carrier of passengers and baggage between Los Angeles and Trona, serving as intermediate points the communities at Mojave, Hampton, Inn City, Osdick, Randsburg and Johannesburg, provided however, that no local service is hereby authorized between Los Angeles and Mojave and/or points intermediate between Los Angeles and Mojave. The certificate hereby granted is in lieu of the authority heretofore granted to said James R. Proper under the provisions of this Commission's Decision No.18867 on Application No.14017, decided October 4, 1927, and is subject to the following conditions:

- 1- Applicant shall file his 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 and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates 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.
- 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 him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 5th day of October 1928.

Leon Whitely
C. Seaver
Don D. R. Smith
W. P. ...
COMMISSIONERS.