

MEM

Decision No. 20667

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of CALISTOGA AND CLEAR LAKE STAGE COMPANY, a corporation, for certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers, baggage and express, for compensation, over the public highways between Sacramento and Monticello and intermediate points, and to combine such operation with applicant's present operative rights between Sacramento and Middletown, and between Calistoga and Middletown and Lake County points.

ORIGINAL

Application No. 14462.

Harry A. Encell, for Applicant
Sanborn & Roehl and DeLancey C. Smith,
by Arthur Roehl, for Beverly Gibson,
Protestant.
H. M. Ball, for Monticello Utilities
Corporation, Protestant.

BY THE COMMISSION:

O P I N I O N

Calistoga and Clear Lake Stage Company has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line, as a common carrier of passengers, baggage and express between Sacramento and Monticello and the intermediate points of Davis and Winters, such service to be combined with and made a part of the service now rendered by applicant between Sacramento and Middletown and Lake County points.

Public hearings on this application were conducted before Examiner Satterwhite at Monticello, the matter was submitted, and is now ready for decision.

Applicant proposes to charge rates and to operate under a time schedule in accordance with Exhibits A and B attached to said application. The equipment proposed to be used by applicant would be the regular equipment now operated by applicant in connection with its present operative stage lines supplemented by such additional equipment as may be necessary to meet the demands of the public.

Beverly Gibson, proprietor of River Auto Stages, and E. F. Gardner, proprietor of Monticello Stage Company, protested the granting of said application.

The following witnesses were called by applicant in support of its proposed service and testified substantially as follows:

F. C. Hemmenway, a newspaper man of Winters, and a member of the local Exchange Club, testified that he had talked to a few residents of Winters at various times and had concluded, as a result of these conversations, that the proposed service would be a public convenience, that personally he had never used or needed the service or knew of any one who had made any demand for the proposed additional service. He also testified that he had no complaint to make or had ever heard any other person express any dissatisfaction with the present stage service of Beverly Gibson operating between Winters and Sacramento or the stage service of E. F. Gardner between Winters and Monticello.

C. M. Robinson, a farmer residing about three miles west of Winters on the road to Monticello, testified that he had occasion to go to Sacramento about once a week except during the busy season on his farm, and made trips to points beyond Monticello about once a year, although he had not made any trip to Lake County points for three years and used his own car at that time. It was his practice on trips to Sacramento to walk to Winters and catch the Beverly Gibson stage there.

Joseph E. Moore, a farmer at Monticello and a county supervisor, testified that the residents of Monticello have occasion to go to Sacramento from time to time and would use the proposed service of applicant, but that personally he had no need for the stage service, as he constantly used his own car and would not use the stage lines unless his own car was broken down. He also had never at any time used the existing stage facilities for the transportation of any express between Sacramento and Winters.

R. J. Little, who owns and operates a resort known as Samuel Springs about ten miles from Monticello, testified that the proposed service would be of personal benefit to him for the reason that he has some patrons at Winters and Davis whom he believed would use the stage lines instead of their own private cars if applicant was allowed to pick up local passengers at these points, thereby avoiding the present transfer at Winters or Monticello.

L. F. Leonard, a farmer residing at a point near Knoxville, about 14 miles north of Monticello, testified that he had six or eight neighbors who might occasionally use the applicant's line to and from Monticello.

G. L. Burge, the proprietor of the Peacock Hotel at Monticello, testified that some of his guests had made inquiries about the stage facilities between Monticello and Sacramento and four or five of them had expressed a desire for a through service. This witness stated that he would always use his own car in going to and from Sacramento, but would on occasions use the proposed service for small express shipments.

L. C. Brooks, a driver for applicant between Sacramento and Samuel Springs, testified he had received during the previous season between May 10th and September 30th about 15 requests at Sacramento and about two requests at Davis for through passenger transportation to Monticello and Lake County points. He has also received inquiries at Winters from a few residents as to prospects of applicant carrying passengers to Lake County points. At Monticello he had also received some complaints that a round trip could not be made to Sacramento in one day.

The protesting stage lines offered both oral and documentary evidence in support of their respective protests.

Beverly Gibson, protestant, owner of the River Auto Stage line, testified that he operated a daily schedule between Winters and Sacramento and maintained a schedule of five trips each way between these points. During the summer season two round trip schedules connect daily with the Monticello Stage Company at Winters. Exhibits of stage capacity offered by this protestant shows that during four representative months of July and August, 1927, and January and February, 1928, with a seating capacity of 26,176 only 5,274 passengers were carried and that for the 12 months ending December 31, 1927, a net loss of \$8,495.54 was sustained by reason of the fact that the operating revenues amounted to \$14,377.84 with total operating

expenses of \$22,873.38. Mr. Gibson further testified that he had received no complaints against his service and had adequately met all the needs of the public. This protestant offered at the hearing to join with the applicant and the Monticello Stage in publication of joint fares and through routes and coordinate his service so that through transportation facilities could be had between Sacramento and Monticello and Lake County resorts and way points.

Monticello Stage Company, operated by E. F. Gardner, serves between Winters and Monticello, a distance of 19 miles. Monticello is a community of about 250 population and is the business center for an agricultural district in the Berryessa Valley. The record shows that the passenger travel on this line is very small and consists mainly of laborers who work on ranches in the vicinity of Monticello. Some of the owners of ranches appeared at the hearing and indorsed the adequacy of this service. A petition signed by about 25 citizens of Monticello was offered by this protestant and recites that this stage service is satisfactory and that the volume of travel is entirely inadequate for the support of another stage line between Monticello and Sacramento. The record shows that during the summer season, as well as in the winter time if the traffic justifies it, the Monticello Stage line proposes to coordinate its service with the River Auto Stage line operated by Beverly Gibson, and maintain two schedules daily, leaving Monticello at 8:00 a.m. and 2:30 p.m., returning from Winters at 10:15 a.m. and 4:30 p.m.

Monticello is an unincorporated town and during the course of this proceeding complaint was made by the protesting

stage lines that applicant had, in violation of his operative right, picked up and carried to Sacramento about 20 passengers who had applied for transportation along that part of the route of applicant between Samuel Springs and a concrete bridge about three-quarters of a mile from Monticello's business center. The record shows that Monticello Stage line does not, as a rule, operate passenger stages beyond the Postoffice or the Monticello hotel located in the business center of Monticello and when occasion requires it operates a taxi service to the environs of Monticello proper and to the ranches in Berryessa Valley. There is no evidence in the record to indicate that the applicant, in picking up passengers along this portion of his route, had any intention to exceed his authorized service and in view of the fact that there exists some uncertainty as to the extent of applicant's operative rights along this portion of his route, the order herein will establish definitely his operative rights along the highway between Monticello and Samuel Springs.

After a careful consideration of all the evidence in this matter, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the proposed service of applicant between Sacramento and Monticello and the intermediate points of Davis and Winters, but does require the establishment of automobile stage service for the transportation of passengers, baggage and express between Samuel Springs and a certain concrete bridge on the highway about three-quarters of a mile north of Monticello, such service to be combined with and made a part of the service now authorized and rendered by applicant between Sacramento and Middletown and Lake County points.

Calistoga and Clear Lake Stage 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.

O R D E R

Public hearings having been held in the above entitled application, the matter having been duly submitted, and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity do not require the operation by Calistoga and Clear Lake Stage Company as a common carrier of passengers, baggage and express between Sacramento, Monticello and the intermediate points of Davis and Winters, but it does require the operation of a stage line, as a common carrier of passengers, baggage and express between Samuel Springs and a certain concrete bridge on the Highway about three-quarters of a mile north of Monticello, such service to be combined with and made a part of the service now authorized and rendered by applicant between Sacramento and Middletown and Lake County points.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to said Calistoga and Clear Lake Stage Company for the service hereinabove described, as an extension and an addition to applicant's present operative rights between Sacramento and Middletown and Lake County points, 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 time schedules and tariff of rates within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be satisfactory to the Railroad Commission.

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.

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

Dated at San Francisco, California, this 9th day of

January, 1929.

Leon O'Connell

C. L. Seaver

Ernest J. Smith

Thos. J. Loutch

W. J. [unclear]

Commissioners.