

EEM

Decision No. 20204

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application  
of CALIFORNIA TRANSIT CO., a cor-  
poration, to lease to GEORGE  
MALAKIAN, operative rights between  
Los Banos and Merced.

} Application No. 14897.

**ORIGINAL**

Earl A. Bagby, for Applicants.

BY THE COMMISSION:

O P I N I O N

In the above entitled application California Transit Co., a corporation, prays that it be permitted to lease to George Malakian a certain operative right for the transportation of passengers and express between Los Banos and Merced, in accordance with the terms, covenants and conditions of a certain lease marked "Exhibit A," and attached to said application.

A public hearing on this application was conducted before Examiner Satterwhite at San Francisco, the matter was submitted and is now ready for decision.

California Transit Co. is the owner and operator of automobile stages over various routes in the State of California and is engaged in the business of transportation of persons, baggage and express between Los Banos and Merced, as well as many other cities and towns in the State of

California.

California Transit Co. obtained the operative right between Los Banos and Merced, serving the intermediate points of Chowchilla Ranch and Santa Rita Ranch through Application No. 10679, Decision No. 14886, dated May 7, 1925, which operative right, with other rights, was authorized to be transferred by Joseph Miller to applicant California Transit Co., said Joseph Miller having received said operative right by transfer from D. Moyer under Application No. 9820, Decision No. 13282 of this Commission, dated March 19, 1924.

The term of said lease is to be for the period of one year, with the privilege of renewing or extending same should the parties on such expiration date desire and is to become effective immediately on approval thereof by this Commission; no property or equipment is included within the terms of said lease and it concerns only the operative rights of the lessor.

Applicants allege, as the sole justification of the approval of said lease, that they will harmonize their operating schedules so that the public service will be in no manner lessened and that the same travelling conveniences as are now maintained by California Transit Co. will be continued.

California Transit Co. offered evidence to the effect that the operative right sought to be leased has for its principal value as a public service the connecting of Pacific Coast points and communities with the Yosemite Valley and adjacent mountain resorts. This operative right, as part and parcel of the extensive consolidated transportation system of the California Transit Co. throughout the San Joaquin Valley and elsewhere, constitutes a connecting link for inter-division service from Merced easterly to Yosemite Valley points and from Los Banos westerly to Pacific Coast communities such as Gilroy, Salinas, Monterey and Santa Cruz. Joint rates are

published for a through service under the order of this Commission, as shown by Tariff C.R.C. No. 13 of the Motor Carriers' Tariff Bureau. An all-year service has been opened into the Yosemite Valley which until recently was limited to a summer service only.

The testimony offered by the California Transit Co. shows that the local service between Los Banos and Merced hardly justifies the operation of the line and is therefore dependent upon the through travel as an important source of revenue. It appears that the small rental of \$30. monthly, as provided in the lease, was estimated by the company as being the approximate revenue that it would receive from the operation of the line over and above direct operating cost, and when overhead is added the line has been constantly operated at a loss.

Mr. Malakian, the proposed lessee, because of economic necessities, plans to be his own manager and superintendent as well as driver. Moreover, in view of the facts that the revenues from the line are small and uncertain and the maintenance of the one round trip schedule consumes but three hours daily, Malakian proposes to engage in other enterprises and will therefore divide his time and interest between the operation of the stage service and his other activities.

The record shows that Mr. Malakian has had no experience at all as a stage owner or operator and has no financial resources of any kind. He proposes to purchase a 12 passenger Studebaker and other necessary equipment entirely on credit. At the hearing he was unable to submit any statement or data indicating what his operating cost or operating revenues would be for any given period of time.

The California Transit Co. frankly stated at the hearing that it would like to lease this branch line or service to Mr. Malakian for the reason that he agrees to give his personal time and attention to its maintenance, and it directs

our attention to the strict terms of the lease wherein it is provided that the lessee must not in any manner jeopardize the ownership of the operative right or make it liable to forfeiture by the California Transit Co. Although the proposed lessee is given an actual temporary possession of the line, a supervisory control is to be maintained by the California Transit Co. with full power of cancellation on short notice.

It is obvious that the California Transit Co. seeks by this proposed lease to temporarily shift the burden of operating this branch line, which is an important link in its main transportation system, to an inexperienced operator with no financial resources, who may succeed or fail in his undertaking.

This Commission has heretofore, in other similar proceedings, looked with disfavor upon the policy of authorizing leases of operative rights and has suggested instead abandonment of service between particular points of operation where the owner of the operative rights feels that the operation is burdensome or unprofitable.

The foregoing view was clearly expressed in a matter involving a proposed lease of operative rights in Decision No. 19713 under Application No. 14049, dated March 30, 1928, wherein the Commission said:

"From its own statements (applicant's) 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 because 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."

After a careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the authorization of the proposed lease.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and being now ready for decision,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby denied.

Dated at San Francisco, California, this 21<sup>st</sup> day of January, 1929.

Thos. D. Lott  
C. J. Lanning  
James L. ...  
Leon Whitehall  
W. A. ...  
Commissioners.