

Decision No. 20801

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
SOUTHERN PACIFIC RAILROAD COMPANY )  
and SOUTHERN PACIFIC COMPANY for )  
authority to discontinue operation ) Application No. 15127.  
of trains carrying passengers, their )  
baggage, and express between Gilroy )  
and Tres Pinos, California. )

In the Matter of the Application of )  
SOUTHERN PACIFIC MOTOR TRANSPORT )  
COMPANY for a certificate of public )  
convenience and necessity to operate )  
motor vehicle service for the trans- ) Application No. 15129.  
portation of passengers, baggage and )  
express between Gilroy and Tres Pinos, )  
and certain intermediate points, the )  
express on applicant's vehicles to be )  
handled by American Railway Express )  
Company, or its successor, by lease. )

E. J. Foulds and E. W. Hobbs, by E. W. Hobbs, for  
Applicants in both applications.

Edward Stern, for the American Railway Express Company,

E. J. Thompson, for Pickwick Stages.

BY THE COMMISSION:

O P I N I O N

By the above entitled applications the Commission is requested to authorize the discontinuance of passenger train service over the line of Southern Pacific Railroad Company between Gilroy and Tres Pinos, and the substitution therefor by Southern Pacific Motor Transport Company of motor bus service for the transportation of passengers and express.

The two applications were consolidated and public hearings thereon held in San Francisco and Hollister. Pickwick Stages System, which operates a motor bus service between Gilroy and Hollister by way of San Juan, appeared to protest the granting of the applications.

The existing rail service on the Gilroy-Tres Pinos branch of the Southern Pacific railroad consists of two mixed trains each way daily. Applicants introduced evidence showing that the annual cost of such passenger and express service is \$30,681., while the annual revenue derived therefrom for the past three years has not exceeded \$3,555. The cost of a motor bus service is estimated at \$14,873. annually.

Of the communities now served by rail, namely, Gilroy, Plantel, Sawyer, Fep, Hudner, Hollister, Agate and Tres Pinos, five are flag stations without depots. The proposed bus operation will serve these at the nearest highway point which is in each case near the railroad. At other points busses will stop at the rail stations and patrons will be accorded the use of all depot facilities. Request is made also to serve Fairhaven School between Hudner and Hollister at which there is at present no rail station. Southern Pacific Motor Transport Company offers in general to perform the same service, including that of American Railway Express, that is now rendered by Southern Pacific Company, and will sell and honor through tickets and apply the same fares, rules and regulations.

Three bus schedules each way daily are offered in substitution for the two train schedules. A large proportion of those who may be expected to use the bus service will do so when requiring transportation to or from points beyond Gilroy. For the convenience of such persons the schedules are arranged

to make as close connections as possible at that point with Southern Pacific main line trains.

It is evident that the existing rail service is being conducted at a material loss. We are of the opinion that if a properly conducted motor bus service were substituted it would fully meet the needs of these communities for public transportation. Those who testified on behalf of Southern Pacific Motor Transport Company stated that the proposed service would adequately meet their own needs, and resolutions of several public bodies endorsing the substitution indicate that the proposed operation will receive the approval and the patronage of the public.

Pickwick Stages System operates between Gilroy and Hollister by an indirect route. The other communities have at present no motor bus transportation. Though the local service rendered by Pickwick Stages may not be inadequate, that offered by applicant touching all of the above points will fill a distinct need, and, if granted as a whole, should not be limited so as to deprive it of the right to render a local service over any part thereof.

Southern Pacific Motor Transport Company will establish the schedules and charge the fares set out in Exhibits "A" and "B" filed with its application. Express will be carried under a contract with American Railway Express at its lawful tariff rates.

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.

O R D E R

The above entitled applications having been filed, public hearings having been held, the matters submitted and the Commission being fully advised,

IT IS HEREBY ORDERED the Southern Pacific Company be permitted and authorized to discontinue from operation passenger trains as Nos. 203, 205, 204, 206 between Gilroy and Tres Pinos, subject, however, to the condition that upon the abandonment of said trains a substitute motor bus service will be provided to the public by Southern Pacific Motor Transport Company, as hereinafter set forth, and that the public be given at least five (5) days notice of such changes by posting notices on trains and in stations affected, and

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 stage service for the transportation of passengers and express between Gilroy and Tres Pinos and the following intermediate points: Plantel, Sawyer, Fep, Hudner, Fairhaven School, Hollister and Agate; provided that the service authorized shall be rendered to and from the depots or stations of Southern Pacific Company at all such points where depots or stations are or may be maintained, and that it shall be operated in coordination with the rail service of said company, and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such service be and the

same is hereby granted to Southern Pacific Motor Transport Company, a corporation, subject to the following conditions:

1. The order herein shall not be construed as authorization for Southern Pacific Motor Transport Company to link up, join or consolidate the operating right herein granted with any of its existing rights.
2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
3. 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 sixty (60) days from the date hereof.
4. 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.
5. 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 18 day  
of February, 1929.

Thomas L. ...  
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Leon ...

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Commissioners.