

Decision No. 21143.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of CALIFORNIA-NEVADA STAGES, INC., for a Certificate of Public Convenience and Necessity to operate an automobile stage line, for the transportation of Passengers, Baggage, Packages and Express, for Compensation, and as a common carrier, between Sacramento and Marysville, California, and intermediate points, via Roseville and Lincoln, California.

ORIGINAL

(Application No. 15,226)

Sanborn and Roehl & DeLancey C. Smith
By A.B. Roehl, for Applicant.

L. N. Bradshaw, for Sacramento Northern
Railway and Western Pacific Railroad
Company, Protestants.

E. W. Hobbs, for Southern Pacific Company,
and Southern Pacific Motor Transport
Company, Protestants.

BY THE COMMISSION:

O P I N I O N

California-Nevada Stages, Inc., applies to the Commission for authority to operate its stages through between Sacramento and Marysville, rather than require its passengers to transfer from one stage to another at Roseville.

Public hearings were held by Examiner Gannon at Sacramento, the matter was submitted on briefs and is now ready for decision.

The operative rights exercised by applicant, and with which we are here concerned, were originally held by Sam Aronson and E. E. Boswell, co-partners doing business under

the name of Golden Eagle-Barker Stage Line, and authorized passenger and express service between Sacramento and Marysville and intermediate points, via Roseville and Lincoln, and the establishment of through rates between the termini above named and all intermediate points, but expressly forbidding through operation of equipment other than between Sacramento and Roseville and between Roseville and Marysville (Dec. 12650, App. 8891). Subsequently, Aronson and Boswell sold these rights to Beverly Gibson, M. B. Gibson, et al., operating as California-Nevada Stages (Dec. 14567, App. 10828), and immediately thereafter California-Nevada Stages Inc. was formed and took over the operation (Dec. 14756, App. 10907).

Applicant now comes before the Commission with a request to operate its equipment through between Sacramento and Marysville, via Roseville and Lincoln, in the conduct of its passenger, baggage and express service heretofore authorized. No change other than that above noted is proposed, the purpose of the application apparently being to eliminate certain inconveniences to passengers resulting from the change from one stage to another at Roseville. Applicant now sells through tickets under authority of the Commission between Sacramento and Marysville but requires its passengers to transfer from one stage to another at Roseville and it alleges that this transfer has caused great confusion and inconvenience to the travelling public and that there have been frequent complaints.

Some twenty-five witnesses were called by applicant and their testimony was more or less similar. Summed up, it amounts to a general satisfaction with the present service with the exception of the change at Roseville, which was

described as highly inconvenient, particularly as it effected the transportation of women, children and baggage. The testimony of eighteen additional witnesses was stipulated into the record as being favorable to the granting of the application.

Beverly Gibson, Jr., assistant to the President of applicant company testified that originally the larger stages were operated between Sacramento and Roseville and the smaller ones between Roseville and Marysville. After the Gibsons became sole owners of the stock of California-Nevada Stages they proceeded to operate through stages, and continued to do so until April 1926, believing they were within their rights in so operating. From that time until August 19, 1928, the stages were operated through to Marysville at which time the operation was again separated and passengers required to change at Roseville, which practice has since continued. He further testified that five round trips are operated daily between Sacramento and Roseville which connect with the run from Roseville to Marysville. This witness presented an exhibit showing that a total of 21,642 passengers had been carried between Sacramento and points north of Roseville, including Marysville, during the year 1928, all of whom were required to change stages at Roseville. During the same period 2,973 express shipments and 4,472 news bundles were similarly transferred. It was further testified to by this witness that a saving of \$15.62 per day would be effected by applicant in operating costs by the proposed through operation, this economy resulting from the fact that one less stage would be required under the through operation.

Applicant's ticket agents at Marysville and Roseville testified as to the number and nature of complaints which they had received over the present service, and as to various requests for elimination of the transfer.

The application was protested by Southern Pacific Company and Southern Pacific Motor Transport Company and also by Sacramento Northern Railway and Western Pacific Railroad Company.

Supposedly the grounds for these protests would be found in alleged loss of business to the protestants as a result of through operation of applicant's stages, though the record discloses no affirmative evidence of that nature. In their brief, protestants Southern Pacific Company and Southern Pacific Motor Transport Company, attack applicant's contention that it could effect an economy of \$15.62 per day by through operation, and argue that because fewer passengers were carried by the stages in 1928 than in 1923 the resulting inconvenience was correspondingly less. Protestant Sacramento Northern Railway filed no brief but did introduce in evidence a tabulation showing its operating revenues and expenses for the past eight years.

A review of the evidence in this proceeding makes it clear that no logical objection lies against the proposed service and that the application should be granted. Whatever reasons may have existed at the time for withholding the right to operate through stages, it is clear now that such operation will be a benefit to the public in eliminating the inconvenience of transfer from one stage to another, in effecting a substantial economy in operation, and in generally improving the service.

California-Nevada Stages, Inc., 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

California-Nevada Stages, Inc., having applied to the Railroad Commission for a certificate of public convenience and necessity to operate through stages between Sacramento and Marysville and intermediate points, via Roseville and Lincoln, public hearings having been held, and the matter being submitted and now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by California-Nevada Stages, Inc. of a through service for the transportation of passengers, baggage and express between Sacramento and Marysville and intermediate points, via Roseville and Lincoln, said operation to be performed in connection with and as part of the service now being rendered by applicant between said points and not as a separate service, and

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

hereby granted to California-Nevada Stages Inc. subject to the following conditions:

1. That applicant shall file, within ten (10) days from the date hereof, acceptance of the certificate herein granted, which acceptance shall contain the statement that the operating right granted herein is accepted as an enlargement of existing operating rights and not as a separate right.
2. That applicant shall make such time schedules and tariff filings as are necessary to cover changes in existing service authorized herein.
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 24th day of May, 1929.

Frank R. Smith

C. C. Brown
Frank R. Smith

W. A. C.
Commissioners.