

ORIGINAL

Decision No. 21721

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of SOUTHERN PACIFIC COMPANY for authority to discontinue operation of Trains Nos. 91 and 92, between Tracy and Los Banos, California.

Application No. 14719

In the Matter of Application of SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY for a certificate of public convenience and necessity to operate a motor vehicle service between Tracy and Los Banos, California, and the intermediate Southern Pacific stations, as a common carrier of passengers and their baggage, and for the express of the American Railway Express Company in substitution for Southern Pacific Trains Nos. 91 and 92 between the same points.

Application No. 14720

- H. W. Hobbs, for Applicants.
- Earl A. Bagby, for California Transit Company, Protestant.
- J. H. Evans, for Town of Patterson, Protestant.
- D. T. Haley, for Gustine Chamber of Commerce, Protestant.
- F. T. McGinnis, for Crow's Landing Chamber of Commerce, Protestant.

BY THE COMMISSION:

O P I N I O N

In the above-numbered applications of Southern Pacific Company and Southern Pacific Motor Transport Company, applicants request the approval of the Commission for the discontinuance of trains Nos. 91 and 92 operated by Southern Pacific Company between Tracy and Los Banos, and the substitution, for such trains, of motor stage service via the highway serving all rail points.

Public hearings herein were conducted by Examiner Williams at San Francisco and Los Banos. Hearings were first conducted in 1928, at which time applicants completed their showing except for the testimony of witnesses in the Tracy-Los Banos district.

Applicant company and protestant, California Transit Company, filed, under date of August 6, 1929, a joint request and stipulation asking for the dismissal of the application of Southern Pacific Motor Transport Company (Application No. 14720) and withdrawing opposition by California Transit Company to the abandonment of train schedules (Application No. 14719). The stipulation was based upon an agreement between applicant railroad and protestant, by which protestant agreed to furnish the "substituted stage schedules hereto annexed" as "additional schedules in substitution for the service now furnished by the trains proposed to be discontinued." It was further stipulated that applicant, Southern Pacific Company, will provide all service in excess of the legal rights for transportation granted to or exercisable by protestant, California Transit Company, upon the daily trains of applicant. Upon the filing of this stipulation there remained written protests by Milk Producers' Association of Newman and the Chamber of Commerce of Gustine, both of which had asked the privilege of being heard in opposition to the removal of the train schedules. Accordingly, a public hearing was set at Los Banos for August 12, 1929, and the parties protesting notified. At this hearing, applicants appeared by counsel, but neither protestant appeared, nor did any other protestant.

Later, written protests were received by this Commission from civic bodies at Patterson and Gustine, each requesting hearings. Accordingly, another hearing was held at Newman on September 20, 1929, at which delegations from Patterson, Crow's Landing and Gustine appeared. Each delegation opposed withdrawal of the gasoline car service (Trains Nos. 91 and 92) unless flag stops on the Owl (Nos. 25 and 26) were made at each place. Newman as a community did not oppose, and L. J. Newman, appearing individually, testified that traffic does not justify the stops sought except at Newman. Patterson witnesses urged Owl stops because of the development of 22,000 additional acres at Patterson Colony. Passenger movements, largely from Southern California, are expected. Witnesses from Gustine, which has a population of about 1,500, and is four miles from Newman, pointed out that this community would have no public carrier to serve it and make Owl connections. All communities said the substitution of California Transit's present equipment is not desirable, it being, as they stated, uncomfortable and dangerous over the poorer roads north of Patterson.

Applicant met this opposition by the testimony of T. Finkbohner, Superintendent of Operations of Southern Pacific Motor Transit and California Transit systems, who said that the vehicles to be used will be 18-passenger or 26-passenger safety coaches with adequate baggage compartments and of the same type, comfort and efficiency as the coaches used in other substitutions for train operations.

Witnesses from Patterson and Gustine asserted that applicant had agreed in 1928, when abandonment of the gas car was originally sought, to establish flag stops at Patterson, Newman and Gustine, and that it was this promise that caused them to withhold protest. In this connection the record shows that at

one of the hearings in November, 1928, Lee Jones, testifying on behalf of Southern Pacific railway, stated:

"In the event the Commission allows us to take off the gasoline motor and substitute the motor coach, I can state now that we will flag the Owl at Patterson, Newman and Gustine, for passengers, Fresno and south."

"MR. BAGBY: The Owl, then, will take care of them and the motor coach won't render the service?"

"MR. JONES: It will render from the non-agencies as far as Newman, but we will also flag the Owl in the event this gasoline motor comes off." (Tr. pp. 38-39.)

At this hearing it was stated by counsel for applicant, Southern Pacific Company, that it had agreed with the Town of Newman that upon the abandonment of trains Nos. 91 and 92 it would make this point a flag stop for the Owl trains Nos. 25 and 26 passing through Newman. It was further stipulated by California Transit Company, through its counsel, that the schedule provided for in Exhibit "A" attached to the stipulation, while meeting present train conditions, would, at any time, be altered as to time in order to perfect co-ordination with the train service of the Southern Pacific, should there be any alteration in its schedules.

The remaining question to be determined is whether Southern Pacific Company should be permitted to abandon its train schedules Nos. 91 and 92, and turn the connecting carrier business over to the California Transit Company for motor stage service. The train schedules are now accomplished by the use of the gasoline motor car maintaining one schedule in each direction daily. This car, known as train No. 91, leaves Los Banos at 5:50 a.m., arriving at Tracy at 7:25 a.m. and makes connection with train No. 79, leaving Tracy at 7:36 a.m. for San Francisco via Niles. The gas car remains at Tracy until 8:05 p.m., when it begins the return trip to Los Banos, as train No. 92, arriving at 9:43 p.m. At Tracy it connects with trains Nos. 50 and 80

from Berkeley and San Francisco, and train No. 51 from Merced and other points, and train No. 35 from Stockton via Lathrop. It is proposed to substitute for this service the special schedule agreed to by California Transit Company.

According to exhibits filed by applicant, Southern Pacific Company, the cost per mile of the gas car for 206 days in 1927 was .4048 cents, and the cost of steam train service during the same year for 159 days was .6959 cents, being an average cost per mile of both services of .5316 cents. The total cost of both services during this period was \$22,586.00. Another exhibit (Exhibit No. 7) estimates the cost per mile of the bus service proposed to be substituted by Southern Pacific Motor Transit Company at .2593 or \$15,653.80 per annum. Thus, had the original scheme of Southern Pacific Motor Transport Company to put its own busses on been accomplished, this saving would have been approximately \$7,000.00 per year. By acquisition of California Transit Company and agreement between both companies, the schedule will be given by California Transit Company.

Another exhibit discloses that in 1923, 12,132 passengers were transported between Tracy and Los Banos and the revenue amounted to \$10,183.00. In 1927, upon exactly the same operation, the passengers carried amounted to 6,078, and the gross revenue \$4,949.00. Further, the earnings for 1928 decreased per mile on the average over previous years. According to these exhibits, the cost of maintaining the gasoline car and steam service was \$22,586.00 in 1927, and the revenue \$4,949.00, resulting in an operating loss of \$17,637.00.

The testimony also discloses that the gasoline motor car is of obsolete pattern and of inferior efficiency and requires frequent withdrawal for repairs. It was the withdrawal for repairs and reconstruction that required the operation of

steam trains for 159 days in 1927. The operation of steam trains is 70 per cent more costly per mile than the gas car.

As trains Nos. 91 and 92 do not carry express matter, the question of property transportation is not here involved.

By the proposed coach schedule, the service between Tracy and Los Banos will be somewhat curtailed. The gasoline motor, which the company seeks to discontinue operating, now picks up between the termini (Los Banos and Tracy) and connects at Los Banos with the Owl train, southbound, and with trains east and west at Tracy. The proposed coach schedule makes the same train connections at Tracy and provides for a connection with the southbound Owl at Newman only. This leaves the 23-mile section between Newman and Los Banos without the pick-up service for the Owl train to Fresno and points south, which it has had for many years. In addition, this connection at Newman with the Owl is very close (five minutes). On the other hand, the morning connection at Los Banos with the northbound Owl is 25 minutes. Should the Owl be late, the coach could not make connection by waiting, as it is scheduled to make rather close connections with other trains at Tracy.

After considering carefully all the facts, the Commission is of the opinion that the proposed coach service will not provide the same service as that sought to be abandoned and that if the operation of trains Nos. 91 and 92 is discontinued, as proposed herein, flag stops should be established on the Owl train at Patterson, Newman and Gustine for passengers to or from Fresno and points south thereof. It is our belief that such flag stop service will not necessitate elongation of the Owl schedules, and it appears that with the establishment of flag stops on the Owl at these points, together with the service afforded by the California Transit Company and the service which it has stipulated it will afford, public convenience and necessity for common carrier service will have been met in this district and will reasonably permit of the discontinuance of trains Nos. 91 and 92, as applied for. An order making such permission effective, will, accordingly, be issued.

ORDER

The above-entitled application having been filed with the Railroad Commission, public hearings having been held, the matter having been duly submitted, and now being ready for decision,

IT IS HEREBY ORDERED that upon the filing by applicant herein of a revised schedule for the operation of trains Nos. 25 and 26 (Owl) establishing flag stops at Patterson, Newman and Gustine for passengers originating at, or destined to, Fresno and points south; and upon filing by California Transit Company of its schedules and tariffs, with rules and regulations and conditions covering enlarged service between Tracy and Los Banos, the Commission will issue its supplemental order herein granting applicant authority to discontinue trains Nos. 91 and 92, subject to the above condition.

IT IS HEREBY FURTHER ORDERED that application of Southern Pacific Motor Transport Company be, and the same hereby is dismissed.

Dated at San Francisco, California, this 28 day of October, 1929.

Thos D. Lovell
C. J. Lewis
Edward J. ...
Leon Whiteley
W. H. ...
Commissioners.