

Decision No. 21722

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application )  
of SOUTHERN PACIFIC COMPANY for )  
authority to discontinue operation )  
of Trains Nos. 93 and 94 between )  
Exeter and Coalinga, California. )

Application No. 14757

In the Matter of the Application )  
of SOUTHERN PACIFIC MOTOR TRANSPORT )  
COMPANY for a certificate of public )  
convenience and necessity to operate )  
a motor vehicle service between )  
Exeter and Coalinga, California, and )  
the intermediate Southern Pacific )  
stations as a common carrier of pas- )  
sengers and their baggage and for )  
the express of the American Railway )  
Express Company, in substitution for )  
Southern Pacific Trains Nos. 93 and )  
94, between the same points. )

Application No. 14759

E. J. Foulds and H. W. Hobbs, for Applicants.

Earl A. Bagby, for California Transit Company,  
an Interested Party in Application  
No. 14757, and Protestant in Applica-  
tion No. 14759.

Edward Stern, for American Railway Express Company,  
an Interested Party.

L. H. Walters, for Golden State Milk Products  
Company, Protestant.

Adolph Feierbach, for Visalia Chamber of Commerce,  
an Interested Party.

Earl A. Bagby and H. A. Rose, for Protestant,  
San Joaquin Valley Transportation Company.

Earl A. Bagby and George Harm, for Protestant,  
George Harm Truck.

BY THE COMMISSION:

O P I N I O N

Southern Pacific Company has petitioned the Railroad  
Commission for an order in the above-entitled Application No.  
14757 for authority to discontinue the operation of its local

passenger trains, known as trains Nos. 93 and 94, operating between Exeter and Coalinga and intermediate points.

The original applicant, Southern Pacific Motor Transport Company, in the above-entitled Application No. 14759, proposed a service and applied for a certificate of public convenience and necessity to operate both motor coaches and motor trucks for the transportation of passengers and their baggage and express matter of Railway Express Agency, Inc. between Exeter and Coalinga and intermediate points.

Public hearings on said applications were conducted by Examiner Satterwhite at Visalia and Hanford. The matters were consolidated for hearing, and after considerable evidence, both oral and documentary, was taken, they were submitted for decision.

California Transit Company protested only the granting of the original Application No. 14759.

During the course of these proceedings, with the consent of this Commission first had and obtained, a written stipulation was filed by both applicants and California Transit Company, protestant, whereby said Application No. 14759 was amended, and California Transit Company substituted as party applicant in the place and stead of Southern Pacific Motor Transport Company.

In accordance with said amendments to Application No. 14759, California Transit Company has dismissed that portion of said application which involves a proposed passenger stage service and has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an auto truck service as a common carrier of property, to-wit: express of Railway Express Agency, Inc., or its successors, between Exeter and Coalinga and intermediate points, including Luna, Giant Oak, Farmersville, Rector, Ambler, Visalia, Jacobs, Faxon, Goshen Junction, Remnoy, Hanford, Armona,

Orion, Lemoore, Heinlen, Rossi, Lethent and Westhaven, at which points the Railway Express Agency, Inc., or its successors now have established, or may hereafter establish, offices for express matter, together with the authority to operate said proposed truck service between Lemoore and Coalinga at such times as the express transportation demands on the existing stage line of applicant shall be in excess of its passenger stage convenience or capacity or in excess of the weight limitations of its present authorized stage service between Exeter and Coalinga; provided, also, that said proposed truck service shall be consolidated with the stage service of applicant to the extent only that the said stage service of applicant and its proposed truck operations may supplement each other in the transportation of baggage and express over the highway routes for which the proposed truck service is sought. All express matter will be handled by Railway Express Agency, Inc. under a lease or contract with applicant.

Applicant proposes to charge the same rates now charged by Railway Express Agency, Inc., or its successors, between its offices or stations on said routes, and between said stations and elsewhere in the territory served by the Railway Express Agency, Inc., or its successors, both interstate and intrastate; and the limitations or conditions upon said transportation will be those set forth in the classifications and tariffs of Railway Express Agency, Inc., or its successors, on file with the Railroad Commission of the State of California.

The proposed time schedule and route between the points proposed to be served are shown in Exhibit "B" attached to said application and made a part thereof, and there is also attached to said application Exhibit "B"-1, a map showing the route of the proposed service and the various stations to be served. The equipment proposed to be used will have sufficient capacity, be of latest design and standard make.

The evidence in support of the application of Southern Pacific Company shows that train No. 93 leaves Exeter daily at 9:20 a.m., going through Visalia to Goshen Junction, thence to Coalinga, arriving at 12:20 p.m.; and that train No. 94 leaves Coalinga at 6:30 p.m. and arrives at Exeter at 9:45 p.m. The equipment is a gasoline motor car, and carries passengers, baggage and express matter. This motor car connects at Exeter and Goshen Junction with north and south bound trains of Southern Pacific Company, and is the only train between these points with the exception of trains Nos. 57 and 58, which operate between San Francisco and Bakersfield and between Armona and Hanford. A mixed train, No. 314, operates between Kerman and Hanford, and a mixed train, No. 315, operates between Hanford and Tranquility.

The record shows that the yearly earnings of these two trains sought to be discontinued fall several thousand dollars below their annual cost of operation. A study of applicant's Exhibits No. 1 and No. 2, introduced in these proceedings, indicates that the average cost per mile of providing this service is 56.41 cents, whereas the earnings vary from 24 cents to 36 cents per mile, the average for the year ending July 31, 1928, being 27 cents for train No. 93 and 30 cents for train No. 94. The operating cost for a complete year is not available from the record, as a steam train was operated during the early portion of the annual period considered in the exhibit. Based on 282 days for which data was submitted, it appears that the annual cost of this motor service is approximately \$30,200 per annum.

The exhibits indicate annual earnings of approximately \$15,200, from which it may be concluded that the annual operating loss from this service is \$15,000 per year. It therefore clearly appears that the continued operation of these two trains constitutes a serious loss and an unnecessary burden on the transportation costs of applicant's system.

The evidence in support of Application No. 14759 shows that a considerable volume of express matter is transported by the two trains Nos. 93 and 94 sought to be discontinued, and that a great portion of this express traffic, both interstate and intrastate, is received from or destined to points in California, such as San Francisco, Los Angeles and Fresno. California Transit Company proposes to operate this express truck service in conjunction and in cooperation with the rail service of the Southern Pacific Company to the same extent as originally herein proposed by Southern Pacific Motor Transport Company.

The testimony shows that applicant, California Transit Company, operates a satisfactory and adequate stage service between Exeter and Coalinga and all intermediate points, and it proposes to operate, in response to public demand, additional schedules in substitution for the service now furnished by trains Nos. 93 and 94, which additional schedules will furnish convenient connections with the Southern Pacific main line trains and thereby provide a direct service between Exeter and Coalinga and the other points proposed to be served, and between all said points and other points in northern and southern California by close or direct connection with trains Nos. 56 and 57 at Goshen Junction, and train No. 55 at Exeter.

The record further shows that in the event it becomes necessary to render service to railroad stations along the route not located in close proximity to the main highway over which applicant now has authority to operate, it will, at the proper time, apply to this Commission for authority to operate such schedules to and from such off line points.

Applicant also proposes, if this application is granted, to file proper optional routing tariffs acceptable to this Commission, whereby, for said branch line service, not only said substi-

tuted schedules, but all schedules of California Transit Company, will be made available for connections with Southern Pacific main line trains, thereby making such train service available for additional schedules above those that now exist through the operation of said rail motor car, proposed to be discontinued.

After careful consideration of all the evidence in these proceedings, we are of the opinion that said application of Southern Pacific Company, No. 14757, and the application of California Transit Company, No. 14759 as amended, should be granted.

The California Transit 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

A public hearing having been held in the above-entitled applications, the matters having been submitted, and the Commission being fully advised,--

IT IS HEREBY ORDERED that the part and portion of said Application No. 14759, so far as said application involves a request for a certificate of public convenience and necessity for the operation of a passenger stage service, be, and the same hereby is dismissed.

IT IS FURTHER ORDERED that Southern Pacific Company be permitted and authorized to discontinue from operation trains Nos. 93 and 94, application for which abandonment is herein made

in said Application No. 14757.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by CALIFORNIA TRANSIT COMPANY, a corporation, of an auto truck service as a common carrier for the transportation of property, to-wit: Express of the Railway Express Agency, Inc., or its successors, between Exeter and Coalinga and intermediate points including Luna, Giant Oak, Farmersville, Rector, Ambler, Visalia, Jacobs, Goshen Junction, Remney, Hanford, Armona, Orion, Lemoore, Heinlen, Rossi, Lethent and Westhaven, at which the Railway Express Agency, Inc., or its successors, may now have established or may hereafter establish offices for express matter, together with the authority to operate said proposed truck service between Lemoore and Coalinga at such times as the express transportation demands on the existing stage line of applicant shall be in excess of its passenger stage convenience or capacity or in excess of the weight limitations, to-wit: one hundred (100) pounds, of its present authorized stage service between Exeter and Coalinga; provided, also, that said proposed truck service shall be consolidated with the stage service of applicant to the extent only that the said stage service of applicant and proposed truck operations may supplement each other in the transportation of baggage and express over the highway routes for which the proposed truck service is sought.

Provided, further, that the express truck service hereby authorized shall be rendered to and from the depots and stations of Southern Pacific Company at all such points where depots or stations are or may be maintained, and that it shall be coordinated 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 hereby is granted to California Transit Company, subject to the following conditions:

- 1.--The order herein shall not be construed as authorization for the California Transit Company to link up, join or consolidate the operating right herein granted with any of its existing rights, save and except as hereinabove provided. Nor shall it be construed as authority to exceed the limit of 100 pounds per package of express matter that may be transported on its passenger stages.
- 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 thirty (30) 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of October, 1929.

Thos D. Lovett

Chas. S. Jones

Ernest A. Smith

Leon Whitwell

Wm. H. ...

Commissioners.