

Decision No. 21768

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
A. D. MOTTO for certificate of public
convenience and necessity to
operate an automobile passenger and
express service, as a common car-
rier, between Pismo Beach, Oceano
and Arroyo Grande, and intermediate
points.

ORIGINAL

Application No. 15712.

S. V. Wright for Applicant.

Harry N. Blair for Valley and Coast
Transit Company, and for
Hearne's Truck Line, Protestants.

E. I. Clark for Pacific Coast Railway
Company, and Railway Express
Agency, Inc., Protestants.

BY THE COMMISSION:

O P I N I O N

A. D. Motto, doing business under the fictitious name
of Pioneer Stages, has petitioned the Railroad Commission for
an order declaring that public convenience and necessity re-
quire the operation by him of an automobile stage line as a common
carrier of passengers and express between Pismo Beach and
Arroyo Grande, serving Oceano and intermediate points.

A public hearing on this application was conducted before
Examiner Satterwhite at San Luis Obispo, the matter was sub-
mitted and is now ready for decision.

Applicant proposes to charge rates in accordance with Exhibit "A" and to operate under a time schedule and over a route in accordance with Exhibit "B" attached to said application. It is proposed by applicant, as shown by above schedule, to operate two round trips daily between San Luis Obispo and Oceano and Arroyo Grande. Applicant will use the equipment described in Exhibit "C."

Valley Coast & Transit Company, Hearne's Truck Line, Pacific Railway Company and Railway Express Agency protested the granting of said application only as to the proposed express service.

Applicant operates an authorized passenger and express service between San Luis Obispo and Pismo Beach and intermediate points and the proposed service is sought as an extension thereto. Applicant testified in his own behalf and called several other witnesses in support of his application. All witnesses who testified at the hearing reside at or in the vicinity of Oceano, an unincorporated community with a population of about 600 people. Oceano is a growing beach town and has experienced in the last few years a substantial development. San Luis Obispo is the buying center for both Oceanso and Arroyo Grande. The witnesses residing in Oceano testified unanimously to the effect that this beach community is in need of the proposed extended passenger and express service.

Arroyo Grande is not a beach town, but is situated on the main coast highway about 20 miles from San Luis Obispo.

Little or no evidence was offered by applicant in support of his extended service to Arroyo Grande. This community, being on the main highway, is adequately and directly served by the Pickwick Stages which operate through Arroyo Grande three

daily schedules in each direction. Arroyo Grande is also served daily by the Valley and Coast Transit Company, Hearne's Truck Line and the Pacific Coast Railway Company.

The record shows, however, that Oceano, on account of being off the main highway, has no passenger stage service at all and that the business men and residents who do considerable buying at San Luis Obispo have need for the limited express business proposed by applicant, particularly in reference to emergency service, and also to expedite the transportation of small merchandise parcels and packages weighing from one to fifty pounds, and occasionally reaching or exceeding seventy-five pounds.

The protesting truck lines offered in evidence their rate and time schedules covering their respective rate and express service over the route sought to be served by applicant. The freight and time schedule of Valley Coast and Transit Company, C.R.C No. 3 shows that it operates only a detour service to Oceano on request, which service is performed by its main highway truck passing through Pismo and Oceano early in the morning about 7:30 a.m. It appears that this detour truck service has done but very little express business, owing to its early and irregular deliveries. Hearne's freight service, as shown by examination of its freight schedule on file with this Commission, operates to Oceano twice a week on Tuesdays and Fridays, arriving about 11:00 a.m. on these days.

It appears that while Hearne's freight service has been patronized to some extent in the transportation of small parcels from San Luis Obispo, it has been unsatisfactory on account of irregular and late arrivals and for lack of a daily service.

After careful consideration of the evidence in this proceeding, we are of the opinion that public convenience and

necessity require the proposed extended service between Pismo Beach and Oceano, but not between Pismo Beach and Arroyo Grande.

A. D. Motto 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 proceeding, the matter having been submitted, and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by A. D. Motto, doing business under the fictitious name of Pioneer Stages, of an automobile stage line as a common carrier of passengers and express between Pismo Beach and Oceano and intermediate points, as an extension of and an addition to applicant's present operative rights between San Luis Obispo and Pismo Beach, but does not require the proposed extended service between Pismo Beach and Arroyo Grande.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to A. D. Motto for the operation hereinabove described, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty 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.
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 him under a contract or agreement on a basis satisfactory to the Railroad Commission.
5. Express matter transported under the authority herein granted shall be limited to such commodities as may be transported on the automotive passenger stages operated by applicant without inconvenience to passengers, no single package to weigh in excess of 75 pounds.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 7th day of November, 1929.

Thomas D. Lovatt
C. Severy

M. P. Carr
Commissioners.