

Decision No. 22044.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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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 for passengers and their baggage, as a common carrier between Sacramento and Colfax and certain intermediate points.

ORIGINAL

Application No. 13891

In the Matter of Application of SOUTHERN PACIFIC COMPANY for authority to abandon operation of local passenger trains Nos. 33 and 34, and Nos. 534 and 535 between Sacramento and Colfax, California.

Application No. 14360

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

Sanborn & Roehl and DeLancey C. Smith, by Arthur B. Roehl, for California-Nevada Stages, Inc., Protestant.
Warren E. Libby, for Pickwick Stages System and Motor Carriers Association, Protestants.
Warren E. Libby and Orrin J. Lowell, for Sierra-Nevada Stages, Protestant.
Edson Abel, for California Farm Bureau Federation and Nevada County Farm Bureau.
Edward Stern, for American Railway Express Company.

BY THE COMMISSION:

OPINION

Southern Pacific Company filed application No. 14360 with this Commission requesting permission to discontinue the operation of Trains Nos. 33, 34, 534 and 535 between Sacramento and Colfax.

Southern Pacific Motor Transport Company filed application No. 13891 for a certificate of public convenience and

necessity to operate motor coach service for the transportation of passengers, and their baggage, and express of the American Railway Express Company between Sacramento and Colfax and certain intermediate points.

Public hearings on these matters were held by Examiner Gannon at Sacramento and Auburn, the matters were submitted on briefs and are now ready for decision. At the first hearing it was agreed that both applications be consolidated for the taking of testimony and decision.

Subsequent to submission, Southern Pacific Company, Southern Pacific Motor Transport Company and Sierra Nevada Stages^{*} filed a stipulation wherein the Transport Company requested that its application insofar as it related to the transportation of passengers and/or property between Roseville and Colfax and intermediate points be dismissed, Sierra Nevada Stages agreeing to withdraw its protest to the applications and Southern Pacific Company stating that it had arranged with Sierra Nevada Stages for the operation of additional motor coach schedules in substitution for the service now furnished by the trains proposed to be discontinued.

The rail service herein proposed to be discontinued between Sacramento and Colfax and intermediate points is as follows:

<u>Train No. 534</u>	<u>Train No. 34</u>	<u>Train No. 535</u>	<u>Train No. 33</u>
4:05 P.M.	7:30 A.M. (lv) Sacramento	(ar) 6:55 A.M.	7:00 P.M.
6:35 P.M.	10:00 A.M. (ar) Colfax	(lv) 6:45 A.M.	4:30 P.M.

* Sierra Nevada Stages is now operated by California Transit Company, which, through stock ownership, is controlled by Pacific Transportation Securities Inc., which also controls Southern Pacific Motor Transport Company.

The above mentioned trains make connections with San Francisco trains at Sacramento together with connections for other points. Trains Nos. 534 and 535 make connections at Colfax with the Nevada County Narrow Gauge Railroad.

Trains Nos. 534 and 535 are rail gasoline motor cars operated daily throughout the year, while trains Nos. 33 and 34 are steam trains operated daily during the period extending from May to October of each year.

Exhibits No. 4 and No. 5 show that the total revenue, including excess baggage, mail and express revenues, derived from the operation of said trains during the year 1927 was \$21,736. The cost of operating these trains for the same period, as computed from Exhibit No. 3, is approximately \$36,000. or about \$14,000. in excess of the revenue. Computed on a train mile basis this would mean an average operating cost of \$1.0465 per train mile for trains 33 and 34, and of \$.6011 per train mile for trains 534 and 535, as compared to a total revenue per train mile of \$.2440 and \$.4842 respectively.

The double track line of Southern Pacific Company between Rocklin and Colfax is so constructed that the eastbound and westbound tracks diverge, consequently towns located along the westbound track are somewhat inconveniently served at corresponding stations along the eastbound track. Due to this condition, it has been the practice to operate the eastbound gasoline motor (train No. 534) over the westbound track, against the current of traffic, from Rocklin to Newcastle, thereby affording service to Loomis and more convenient service to Penryn. From Newcastle eastward the gasoline motor operates with the current of traffic to Colfax. A third track, designa-

ted as track No. 4, has been constructed between Rocklin and Loomis, and when not in use for the storage of refrigerator cars, which usually occurs during September and October, is utilized by the gasoline motor traveling eastbound for the purpose of avoiding interference with trains on the westbound track.

The Sacramento Division is the concentrating point for icing and assembling trains for eastward movement from practically all directions. Commodities from the San Joaquin and Santa Clara Valleys, San Francisco, Oakland, Napa and northwest counties, and Sacramento River delta region, for eastward shipment, are all transported over the double track line between Elvas and Roseville, and during the heavy fruit season approximately one thousand carloads of perishables are transported over this track daily.

The record shows that during the heavy shipping season considerable delay to fruit trains is caused through interference by the trains which are herein proposed to be discontinued. The loss resulting from this delay amounts to as much as \$50.00 per day and is not included in operating expenses as above set forth. The following tabulation, taken from Exhibit No. 40, shows the amount of delay to freight trains during twelve days of 1927 by said trains:

Train No. 33	delayed freights	106	minutes
" No. 34	" "	375	"
" No. 534	" "	265	"
" No. 535	" "	55	"
Total delay to freights		801	minutes

The total number of passengers transported by these trains during 1927 was as follows:

Train No. 534	10,722
" No. 535	9,081
" No. 33	1,140*
" No. 34	<u>1,002*</u>
Total	21,925

*June 1st to September 24th.

The average number of passengers carried on trains Nos. 534 and 535 is 27, and on trains Nos. 33 and 34 is 9.

The number of passengers carried and revenue earned between Sacramento and Colfax during the month of July for each year from 1923 to 1927 is as follows:

	<u>Passengers</u>	<u>% of 1923</u>	<u>Revenue</u>	<u>% of 1923</u>
July, 1923	8,666	100%	\$ 6,187.	100%
1924	5,225	60.3%	4,112.	66.5%
1925	4,590	53.0%	3,896.	63.0%
1926	3,373	38.9%	2,645.	42.8%
1927	3,012	34.8%	2,101.	34.0%

It may be seen from the above tabulation that passenger traffic and revenue has continually declined since 1923 so that during July, 1927, the number of passengers and amount of revenue were 35% and 34% respectively of what they were during July, 1923.

If the discontinuance of these trains is authorized, Southern Pacific Company will still operate six passenger trains daily in each direction between Sacramento and Colfax, but it should be noted that most of these trains do not stop at all of the intermediate stations.

A majority of the witnesses who testified in this proceeding were not opposed to the discontinuance of the trains provided an adequate motor coach service were substituted in lieu thereof. Both applications received the endorsement of various chambers of commerce, city councils and other public

bodies, as is evidenced by a number of resolutions filed at the hearings.

It appears that these trains are not only being operated at a loss, but that passenger travel has continued to decline since 1923 so that any hope of future financially successful operation is improbable. It also appears that other losses are incurred by the company due to interference of these trains with through fruit and freight trains during the heavy season, and the delay caused to through fruit trains, in our opinion, is a factor of most vital importance to the shipping public. The operation of eastbound train No. 534 against the current of traffic on the westbound main line between Rocklin and Newcastle is not conducive to safe operation.

The number of passengers carried by these trains during 1927 was 21,825, consequently upon the discontinuance of the trains some form of suitable substitute should be provided for their transportation, and from the record herein it appears that motor coach service will be an adequate substitute.

The record in this proceeding is voluminous regarding the amount and type of express handled by these trains between Sacramento and Colfax. However, after analyzing such testimony, it appears that motor coaches will be capable of transporting it adequately and efficiently.

During certain days of the fruit season a fairly large quantity of perishables is transported on some of these trains. W. L. Hack, Superintendent of Southern Pacific Company's Sacramento Division, testified that in the event the amount of such traffic was too great for transportation by motor coach, rail facilities would be provided.

Southern Pacific Motor Transport Company at the outset of these proceedings proposed to render a motor coach service for the transportation of passengers and their baggage, and express of the American Railway Express Company, between Sacramento and Colfax and certain intermediate points in lieu of the trains proposed to be discontinued by Southern Pacific Company, in other words to perform as nearly as possible the same service which was rendered by the trains. The Transport Company now requests that its application for a certificate of public convenience and necessity for the operation of motor coach service between Roseville and Colfax be dismissed and Southern Pacific Company requests that Sierra Nevada Stages be permitted to co-ordinate its service with the rail service so as to provide motor coach service between Sacramento and Colfax and intermediate points, except between Sacramento and Roseville and intermediate points, in lieu of the trains which may be discontinued.

Sierra Nevada Stages operates a motor coach service between Sacramento and Colfax and all intermediate points, except that no passengers or express are transported between Sacramento and Roseville and intermediate points.

It is the understanding, from the stipulation filed, that Sierra Nevada Stages will provide a substitute schedule for each train discontinued and will perform a service identical with that proposed by Southern Pacific Motor Transport Company. However, before any of the trains are discontinued this Commission should be assured, by means of an agreement entered into by the interested parties, that the co-ordinated service to be afforded by Sierra Nevada Stages will be of such a character as to meet the needs of the traveling and shipping public.

The Southern Pacific Motor Transport Company still desires a certificate of public convenience and necessity to operate a motor coach service between Sacramento and Roseville and intermediate points.

California Nevada Stages, Inc., operates nine round trip schedules daily with one additional round trip on Saturdays and Sundays between Sacramento and Roseville and intermediate points.

The average number of passengers carried between Sacramento and Roseville and intermediate points on trains Nos. 534 and 535 during the period from January 10th to January 16th, 1928, inclusive, was 6.1 per train. The average number of passengers carried between Roseville and Sacramento and intermediate points on trains Nos. 33 and 34 on July 5th and 6th, August 3rd and 4th, and September 15th and 16th, 1927, was 2.0 per train.

It is evident that the number of passengers carried on the trains proposed to be discontinued is inconsiderable and would not warrant the certification of another motor coach service between said points, particularly in view of the rather frequent and adequate service now being afforded by California-Nevada Stages, Inc. between said points. California-Nevada Stages, Inc. during the four weeks ending March 31, 1928, and a like period ending October 28, 1928, carried 11,749 passengers between Sacramento and Roseville. The total seating capacity of its stages operated on this run during those two periods was 27,806, which would indicate that the stages ran 58 per cent empty. It is apparent that California-Nevada Stages, Inc. is entirely able to transport all passengers now being carried on trains

proposed to be discontinued.

California-Nevada Stages, Inc., through its president, offered to co-ordinate its service with Southern Pacific Company's rail service to the extent of providing substitute motor coach service between Sacramento and Roseville ~~and~~ the trains proposed to be discontinued. California-Nevada Stages, Inc., do not operate via Antelope, but the record discloses very little traffic of any kind to and from that point.

The fares proposed by Southern Pacific Motor Transport Company are the same as those presently charged by Southern Pacific Company and in practically every instance are higher than the one-way or 30-ride commute rates proposed to be charged by Sierra Nevada Stages in the substituted service. However, there appears to be nothing to justify a higher level of rates for the substituted service than is now in effect on the stage lines. Southern Pacific Motor Transport Company proposes to provide, through American Railway Express Company, an express service identical with that now rendered on the trains proposed to be discontinued. Many of the witnesses who testified in this proceeding were primarily interested in express service and testified to a need for a continuance of such service by American Railway Express Company. It appears that the service of that company is of the utmost importance to a great many of the shippers and is a service to which they are entitled. Sierra Nevada Stages and California-Nevada Stages, Inc., do not transport express of American Railway Express Company. If the service to be rendered in

lieu of trains is to be a substitute service then, in order to make such substitution complete, the Southern Pacific Company should arrange to have such express transported, and the Commission should be assured of such an arrangement.

From the record herein, we are of the opinion and hereby conclude that the continued operation of the passenger train service proposed to be discontinued is not justified by the patronage offered by the traveling public; that the continuing decreases in revenue, in comparison to operating costs, place an undue burden on applicant and its patrons in the continued maintenance of the unprofitable passenger train service herein proposed to be discontinued, particularly when an adequate and efficient substitute for such service can be provided at a much less cost; that Sierra Nevada Stages will be capable of conducting an adequate substitute service between Sacramento and Colfax and intermediate points with the exception of between Sacramento and Roseville and intermediate points, and that public convenience and necessity do not warrant the establishment of a motor coach service for the transportation of passengers by Southern Pacific Motor Transport Company between Sacramento and Roseville and intermediate points but do require that said company should transport express between said points and that California-Nevada Stages, Inc. should co-ordinate its service so as to provide motor coach service for the transportation of passengers, baggage and express on about the same train schedules as are authorized to be discontinued.

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

Applications having been filed with this Commission, public hearings having been held, the matters having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that permission and authority be and is hereby granted to Southern Pacific Company to discontinue the operation of its passenger trains Nos. 33, 34, 534 and 535 on its Sacramento Division between Sacramento and Colfax subject to the following conditions:

1. Prior to such discontinuance Southern Pacific Company shall enter into agreements, and thereafter submit certified copies of such agreements to this Commission for its approval, whereby (a) Sierra Nevada Stages (now California Transit Company), shall provide an adequate substitute motor coach service for the transportation of passengers, baggage and express between Sacramento and Colfax and intermediate points except Roseville and points west thereof; (b) Southern Pacific Motor Transport Company or some other competent agency shall provide transportation for express of American Railway Express service between Sacramento and Roseville and intermediate points.
2. The fares for local service between Sacramento and Colfax and intermediate points shall be those maintained by Southern Pacific Company except that in no case shall such fares exceed those now maintained by Sierra Nevada Stages.

3. The fares for through service from or to points beyond Sacramento and Colfax, in conjunction with Southern Pacific Company, shall be those now maintained by Southern Pacific Company, except that in no case shall such fares exceed the aggregate of intermediate fares.
4. The foregoing fares shall be published and filed on not less than five (5) days' notice to the Commission and the public.
5. The public shall be given at least five (5) days' notice of the discontinuance of said trains and the establishment of substituted motor coach service by posting notices on trains and in stations affected, and also by publication of such notice in Sacramento newspapers.
6. If at any time the amount of traffic, either passenger or express, is greater than that which can be transported safely and conveniently on motor vehicles, Southern Pacific Company shall provide rail facilities for such traffic.
7. If said discontinuance of trains, together with the establishment of the substituted motor coach service shall not have been effected within one year from the date of this order, the authorization herein granted shall lapse and become void, unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED that that portion of Southern Pacific Motor Transport Company's application requesting a certificate of public convenience and necessity for the operation of motor coach service for the transportation of passengers, baggage and express between Roseville and Colfax and intermediate points be and the same is hereby dismissed.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by Southern Pacific Motor Transport Company of an automotive service for the transportation of express only of the American Railway Express Company (now Railway Express Agency, Inc.) between Sacramento and Roseville and intermediate points, 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, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificates herein granted within a period of not to exceed ten (10) days from date hereof, said acceptance to contain a statement that the rights granted herein are accepted in lieu of operating rights previously obtained and acquired.
2. Applicant, Southern Pacific Motor Transport Company, shall make such tariff and time schedule filings as are required by the Commission's General Orders, which filings shall be in accordance with the order herein.
3. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance 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 Commission reserves the right to issue such other and further orders in these proceedings as to it may appear just and proper or as may be required by the public convenience and necessity.

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 21st day of January, 1930.

George S. Sawyer
Ernest C. Smith
Leon A. Whelan
John D. Smith
W. B. Carr
Commissioners.