

**ORIGINAL**

Decision No. 22093

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA TRANSIT CO., to purchase of SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY operative rights for the transportation of express of Railway Express Agency, Inc., between Bakersfield, Maricopa and Fellows. ) Application No.16190

In the Matter of the Application of CALIFORNIA TRANSIT CO., to purchase of E. V. Hale operative rights for the transportation of newspapers, bread and bakery products between Bakersfield, Maricopa and Fellows. ) Application No.16188

In the Matter of the Application of CALIFORNIA TRANSIT CO., to purchase and KERN COUNTY TRANSPORTATION CORPORATION to sell operative rights for the transportation of persons and property between Bakersfield and Taft. ) Application No.16212

In the Matter of the Application of CALIFORNIA TRANSIT CO., to purchase and WALTER BOYD to sell operative rights of Boyd Stage Company for the transportation of persons and property between Bakersfield and Taft. ) Application No.16213

BY THE COMMISSION -

OPINION and ORDER

Applicants, Southern Pacific Motor Transport Company, E. V. Hale, Kern County Transportation Corporation and Walter Boyd, operating under the name of Boyd Stage Company, ask permission to sell the operative rights and properties described in Applications Nos.16190, 16188, 16212 and 16213, respectively, to the California Transit Co., a corporation, which asks permission to acquire said operative rights and properties and to consolidate the rights herein proposed to be purchased, with its general system, and to serve the points involved in connection with, and as a part of, its said general system. The operative rights involved cover service for the transportation of persons

and property between Bakersfield and points west thereof. Attached to the petition in each of the applications is an agreement (Exhibit "B" in Applications Nos. 16212 and 16213, and Exhibit "A" in Applications Nos. 16190 and 16188) of sale setting forth the consideration to be paid for the operative rights and properties proposed to be sold and transferred. Applicants California Transit Co., Walter Boyd and Kern County Transportation Corporation further ask permission to cancel the lease executed under the authority granted by Decision No. 18280, as modified by Decision No. 19267.

The consideration to be paid for the E. V. Hale operative right is the sum of \$100.00.

The consideration to be paid for the Walter Boyd operative rights and properties is reported at \$15,000.00 apportioned as follows:

|  |           |
|--|-----------|
| Book value of operating equipment . . . . .      | \$2002.00 |
| Expenditures in obtaining certificates . . . . . | 2020.00   |
| Good will and going concern value . . . . .      | 8978.00   |

The consideration to be paid for the operative rights and properties of the Kern County Transportation Corporation and the Southern Pacific Motor Transport Company is given as "the net book value of said operating rights and property as the same appears on the books of the seller."

Applicants have not submitted sufficient information to enable us to determine how much of the consideration which California Transit Co. will pay for the operative rights and properties of the vendors is chargeable to plant and equipment or to current asset accounts. It appears, however, from information at hand that the payment will be relatively small. Because of this situation, and for other reasons, the order herein will permit the transfer of the operative rights and properties. It will, however, provide that any amounts which California

Transit Co. may pay for the operative rights and properties of the vendors must be charged to Account 109 "other debit accounts" and carried in that suspense account until the distribution thereof to primary accounts is approved by the Commission. Within forty days from the date hereof California Transit Co. shall file with the Commission a detailed description of the operative rights and properties acquired, a detailed statement showing what it paid for the operative rights and properties of each of the vendors, the primary accounts to which it proposes to charge or credit such cost, the amount to each account and the customary and usual data to support each debit or credit.

According to the records of the Railroad Commission the rights herein sought to be transferred were established as follows:

KERN COUNTY TRANSPORTATION CORPORATION

Western Auto Stage Company, Inc., established prior right for the transportation of passengers and express between Bakersfield and Taft and intermediate points, by C.R.C. No.1, Local Passenger and Package Tariff No.1, effective April 29, 1917. (Package limit 75 pounds per unit.)

By Decision No.7089, dated February 5, 1920, and issued on Application No.5311, Western Auto Stage Company was authorized to sell to Kern County Transportation Corporation operative right for the transportation of passengers and express between Bakersfield and Taft and intermediate points of Panama, Old River, Western Water Works and Tank Farm.

WALTER BOYD (BOYD STAGE COMPANY)

Kitchen, Boyd and Ingalls established prior right for the transportation of passengers and baggage between Bakersfield and Taft and intermediate points by C.R.C. No.1, Local Passenger Tariff No.1, effective April 29, 1917.

By Decision No.5373, dated May 2, 1918, and issued on Application No.3697, Wood, Boyd and Ingalls asked for authority from the Commission declaring that public convenience and necessity required the operation by them of an automobile stage line as a common carrier of passen -

gers between Bakersfield and Taft and intermediate points. The Commission in granting this application declared applicants successors to the partnership of Kitchen, Boyd and Ingalls who operated over the line between Bakersfield and Taft prior to May 1, 1917.

By Decision No.8939, dated December 11, 1919, and issued on Application No.5038, Wood was authorized to sell and Boyd, Ingalls and Kitchen to purchase the automotive right of Wood, Boyd and Ingalls between Bakersfield and Taft and intermediate points, for the transportation of passengers and baggage.

By Decision No.10218, dated March 27, 1922, and issued on Application No.7505, Kitchen was authorized to sell to Boyd and Ingalls the automotive operative right of Kitchen, Boyd and Ingalls between Bakersfield and Taft and intermediate points for the transportation of passengers and baggage.

By Decision No.10593, dated June 16, 1922, and issued on Application No.7700, Ingalls was authorized to sell to Boyd and Mattly the automotive operative right for the transportation of passengers and baggage between Bakersfield and Taft and intermediate points.

By Decision No.17734, dated December 10, 1926, and issued on Application No.13346, Chris Mattly was authorized to transfer his interest in auto passenger stage line between Bakersfield and Taft to his son, Gottlieb Mattly.

By Decision No.19988, dated July 3, 1928, and issued on Application No.14835, Mattly was authorized to sell his interest in the Boyd-Mattly Stage Company to Boyd.

By Decision No.20323, dated October 15, 1928, on Application No.15069, Walter Boyd was granted a certificate of public convenience and necessity to transport express matter between Bakersfield and Taft and intermediate points. The express right was granted not as a separate and distinct operation but in conjunction with and as a part of the automotive passenger stage service conducted by Boyd between Bakersfield and Taft and intermediate points. The express was limited to such property as may be transported on passenger stages.

E. V. HALE

By Decision No.19936, dated June 26, 1928, and issued on Application No.14522, E. V. Hale was authorized to transport by automobile "newspapers, bread and bakery products" and no other property between "Bakersfield, Tupman, Taft, Fellows and Maricopa."

SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY

By Decision No.21683, dated October 17, 1929, and issued on Application No.15467, Southern Pacific Motor Transport Company was authorized to transport by truck express of Railway Express Agency, Inc., between Bakersfield and Maricopa and between Bakersfield and Fellows, serving the intermediate points of Panama, Old

River, Western Water Co., Ford City and Taft or other intermediate points at which Railway Express Agency, Inc., may hereafter establish offices for express matter.

California Transit Co. has an operating right for passengers, baggage and express between Bakersfield and Taft and intermediate points. A comparison of the rights proposed to be purchased with this right shows that so far as routing is concerned, with the exception of a distance of about a mile between Greenfield and Panama not followed by California Transit Co., the rights of the four operators parallel each other between Bakersfield and Taft and intermediate points. Boyd and the Kern County Transportation Corporation have been operating the California Transit right between Greenfield and Taft under a lease approved by this Commission in its Decision No.19280, as modified by Decision No.19267. Tupman is not now served by California Transit, nor are Fellows and Maricopa. The last named points are served by Hale and Southern Pacific Motor Transport Company. Two of the selling carriers (Hale and Southern Pacific Motor Transport Company) transport property only. The other two (Boyd and the Kern County Transportation Corporation) transport passengers, baggage and express, one (Kern Corporation), with a package but no vehicle limitation, and the other (Boyd), with no package weight limitation but a limit as to vehicle.

California Transit Co. though it proposes to consolidate the rights herein proposed to be transferred with its main system, does not propose, except for the consolidation, any enlargement of the rights as they were originally granted, nor does it propose to increase the rates now on file in the names of the selling applicants. The lowest rate, it declares, will prevail.

It thus appears that the granting of the applications involved herein will simply vest in one operator, already

authorized to serve the general field between Bakersfield and Taft, the rights of four (4) competitors.

As justification for the merger and consolidation, California Transit Co. points out that recent activities of the U. S. Government in connection with the limitation of the production of oil in the territory served by the applicants herein, have so affected the territory that it is not possible for all five operators to operate profitably. The revenues, combined, it is claimed, will, however, enable the surviving carrier to fully and adequately serve the territory affected.

Under the circumstances, we are of the opinion that the four applications may be consolidated for consideration, and we are of the further opinion that it is a matter in which a public hearing is not necessary.

California Transit Co. 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.

IT IS HEREBY ORDERED, that applicants, Southern Pacific Motor Transport Company, E. V. Hale, Kern County Transportation Corporation and Walter Boyd may, on or before April 1, 1930, sell their operative rights and properties described in Applications Nos. 16190; 16188; 16212 and 16213, respectively, to the California Transit Co., a corporation, which corporation is hereby authorized to acquire said operative rights and properties.

IT IS HEREBY FURTHER ORDERED that said authority to sell and purchase said operative rights and properties is subject to the following conditions:

1- California Transit Co. shall charge the amount it pays for the aforesaid operative rights and properties to Account No.109, other debit accounts, and shall carry the amount in said suspense account until the distribution thereof to primary accounts is approved by the Commission. Within forty days from the date hereof California Transit Co. shall file with the Commission a detailed description of the operative rights and properties acquired under the authority herein granted, a detailed statement showing what it paid for the operative rights and properties of each of the vendors, the primary accounts to which it proposes to charge or credit such cost, the amount to each account, and the customary and usual data to support each proposed debit and credit entry.

2- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

3- Applicants Hale, Boyd, Southern Pacific Motor Transport Company and Kern County Transportation Corporation shall immediately unite with applicant California Transit Co. in common supplement to the tariffs on file with the Commission, applicants Boyd and Kern County Transportation Corporation, Hale and Southern Pacific Motor Transport Company on the one hand withdrawing, and applicant California Transit Co. on the other hand accepting and establishing such tariffs and all effective supplements thereto.

4- Applicants Hale, Boyd, Southern Pacific Motor Transport Company and Kern County Transportation Corporation shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant California Transit Co. shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicants Hale, Boyd, Southern Pacific Motor Transport Company and Kern County Transportation Corporation, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants Hale, Boyd, Southern Pacific Motor Transport Company and Kern County Transportation Corporation, or time schedules satisfactory to the Railroad Commission.

5- The rights and privileges herein authorized to be transferred 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.

6- No vehicle may be operated by applicant California Transit Co. 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.

IT IS HEREBY FURTHER ORDERED that the application of California Transit Co. for an order of the Commission authorizing the consolidation of said rights with themselves and the consolidation of said consolidated right with the system of California Transit Co. be and the same is hereby granted and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such consolidation be and it is hereby granted to California Transit Co. with the understanding that such consolidated right shall be considered a right for the transportation of passengers, baggage and express, subject to the following provisions:

1- That the route to be followed by California Transit Co. between Bakersfield and Taft shall be via the main highway through Greenfield, or the main highway direct via Stine School House through Panama (not serving Greenfield), or via the Oak Street extension to Panama, thence via the main highway through Old River, Western Water Co. and Ford City;

Between a point on the last above described route near Western Water Co. and Tupman via the main highway;

Between Taft and Maricopa via the main highway;

Between Taft and Fellows via the main highway.

2- That no passengers shall be transported to or from points between Tupman and the junction of the Tupman Highway with the main Bakersfield-Taft Highway, Tupman included, nor between Taft and Maricopa, Maricopa included; nor between Taft and Fellows, Fellows included.

3- That no express shall be transported to or from points between Tupman and the junction of the Tupman highway with the main Bakersfield-Taft Highway, Tupman included, except newspapers, bread and bakery products.

4- That no express shall be transported to or from points between Taft and Maricopa, Maricopa included, or to or from points between Taft and Fellows, Fellows included, except newspapers, bread and bakery products and the express of Railway Express Agency.



5- That as to express that is herein authorized to be transported, there is no restriction as to the weight of shipment or vehicle of transportation.

6- That nothing herein contained shall be construed as affecting the restriction as to vehicle of transportation of express or weight of a single shipment (40 pounds), as now exists on the operation of California Transit Co. between Saugus and Greenfield.

IT IS HEREBY FURTHER ORDERED that the lease of operating right between Taft and Greenfield entered into by Walter Boyd and Kern County Transportation Corporation and California Transit Co. and approved by California Railroad Commission Decision No.18280, as modified by Decision No.19267, be and the same is hereby terminated.

Dated at San Francisco, California, this 6<sup>th</sup> day of ~~January~~ *February*, 1930.

*W. C. Sawyer*  
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*Wm. H. ...*  
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*Wm. H. ...*  
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Commissioners.