

Decision No. 22317.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of PICKWICK STAGES SYSTEM, a corporation, for a certificate of public convenience and necessity to extend its operations from Calipatria to Niland and establish through service between Calexico and Niland for the transportation of passengers, their baggage, and express, consolidating such operations with the remainder of its system.

ORIGINAL

Application No. 16243.

In the Matter of the Application of SOUTHERN PACIFIC COMPANY for Authority to Discontinue Operation of Trains Numbers 153, 154, 155 and 156, between Niland and Calexico.

Application No. 16260.

H. W. Hobbs, for Southern Pacific Company.

Earl A. Bagby and H.W. Hobbs, by H. W. Hobbs, for Pickwick Stages System.

W. W. Greenhill, for Brotherhood of Locomotive Engineers, Order of Railway Conductors, and Brotherhood of Railroad Trainmen, Protestants, in Application No. 16260.

BY THE COMMISSION:

O P I N I O N

Southern Pacific Company filed application No. 16260 with the Railroad Commission requesting permission to discontinue the operation of Trains Nos. 153, 154, 155 and 156 between Niland and Calexico, in the County of Imperial.

Pickwick Stages System filed Application No. 16243, requesting a certificate of public convenience and necessity to extend its automotive operations from Calipatria to Niland and to establish through service between Calexico and Niland,

for the transportation of passengers, their baggage and express, consolidating such operations with the remainder of its system.

A public hearing on these applications was held before Examiner Cannon at El Centro, on March 6, 1930. At that time the two matters were consolidated, and having been duly submitted, are now ready for decision.

The Southern Pacific Company now operates four local gasoline motor passenger trains in addition to other trains between Niland and Calexico, a distance of approximately forty-one miles. It proposes in its application to discontinue the operation of these four gasoline motor passenger trains, the schedules of which are as follows:

<u>Train No. 154</u>	<u>Train No. 156</u>	<u>Train No. 153</u>	<u>Train No. 155</u>
11:25 A.M.	4:00 P.M. (Lv.) Niland (Ar.)	11:05 A.M.	3:10 P.M.
12:50 P.M.	5:25 P.M. (Ar.) Calexico (Lv.)	9:40 A.M.	1:45 P.M.

The above mentioned trains make connections with trains for Los Angeles and other points at Niland.

Exhibit 4 shows that the total revenue, including excess baggage, mail and express, derived from the operation of said trains during the year 1929 was \$15,241.00. The out-of-pocket cost of operating these trains for the same period, as shown by Exhibit 4, is close to \$30,000., or approximately \$15,000. in excess of the revenue. Computed on a train mile basis, this would mean an average out-of-pocket cost per train mile of \$.4823 as compared to a total revenue per train mile of \$.2547.

The Imperial Valley, through which the Southern Pacific Company's Niland-Calexico line operates, produces vast quantities of lettuce, melons and other fruits and vegetables, a

large portion of which is transported over said rail lines

The record shows that during the heavy shipping season, considerable delay to fruit and vegetable trains, as well as switching engines, is caused through interference by the trains proposed to be discontinued. The loss resulting from this delay amounts to as much as \$35,000 per day and is not included in operating expenses as above set forth. The following tabulation, taken from Exhibit 12, shows the amount of delay to other trains on June 28 and 29, 1929, by said trains:

	<u>Delay in Minutes</u>	<u>Estimated Loss Due to Delay</u>
Train No. 153	30 Min.	\$9.50
" " 154	58 "	22.66
" " 155	83 "	26.50
" " 156	30 "	11.00
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Total Delay	201 Min.	\$69.66

The record shows that Southern Pacific Company has received several serious complaints from shippers on this line regarding delays to switching movements of perishable through freight caused by the trains to be discontinued.

The total number of passengers transported by these trains, and the average number of passengers per day, during 1929, were as follows:

	<u>Passengers</u>	<u>Average No. of Passengers per day</u>
Train No. 153	2690	8
" No. 154	3262	10
" No. 155	2139	7
" No. 156	4633	14
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Total	12,724	

If the discontinuance of these trains is authorized Southern Pacific Company will still operate two trains daily in each direction between Niland and Calexico, all of which stop, or will stop flag at all stations between said points.

None of the witnesses who testified in this proceeding were opposed to the discontinuance of the trains, provided an adequate motor coach service was made available.

Mr. Greenhill, representing various transportation Brotherhoods, protested the discontinuance of the trains on the ground that it would deprive members of said Brotherhoods of employment.

It appears that these trains are not only operated at an out-of-pocket loss, but that passenger travel is such 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 vegetable trains, as well as switching engines, during the heavy season, and these delays, in our opinion, are a factor of most vital importance to the shipping public.

The number of passengers carried by these trains during 1929 was 12, 724, 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.

Pickwick Stages System now operates a motor coach service for the transportation of passengers and property between Calexico and Calipatria via El Centro and Brawley, and also has operative routes east and west from El Centro and west from Brawley. Pickwick Stages System formerly owned and operated a motor coach service between Calipatria and Niland, but it was abandoned under authority of Decision No. 19476, due to decrease

in population of the territory, resulting in operation at a loss.

Pickwick Stages System is now requesting a certificate of public convenience and necessity for the operation of a motor coach service for the transportation of passengers, baggage and express (including property transported as express through the agency of Railway Express Agency), between Calipatria and Niland and intermediate points, as an extension of its existing service between Calexico and Calipatria, so as to provide service in lieu of the trains proposed to be discontinued. The stage company proposes to operate four schedules daily between Niland and Calexico on approximately the same schedules as those of the trains proposed to be discontinued and to make the same connections with trains at Niland as are now being made by said trains.

It appears from the record in this proceeding that Pickwick Stages System will be capable of handling adequately and efficiently the business now transported by the trains to be discontinued, between Niland and Calexico.

The stage company requests that the present restrictions, as to the weight of packages to be received for shipment as express by Pickwick Stages System on its existing operative rights between Calexico and Calipatria and intermediate points, be removed, or declared inapplicable, as to express that may be transported through the agency of Railway Express Agency, Inc.

The existing one way and round trip passenger fares of Southern Pacific Company between Niland and Calexico and the intermediate points are lower than the Pickwick fares between the same points. It is proposed by Southern Pacific Company to sell tickets at its local agencies and by tariff publication

authorize the optional use of the tickets via either train or stage between Niland and Calexico.

Southern Pacific Company fares between the points at issue, as heretofore stated, are lower than those of Pickwick Stages System by 8 cents one way and 10 cents round trip between Niland and Calipatria, and 32 cents one way and 55 cents round trip between Niland and Calexico, with proportional differences at other points. Under the optional proposal all travelers acquainted with the opportunity presented would naturally purchase transportation of Southern Pacific Company and therefore two persons could be on the same stage, one holding a ticket from Niland to Calexico of Pickwick Stages, purchased for \$2.30, and the other a Southern Pacific Company ticket purchased for \$1.98, a difference of 32 cents. In the adjustment of earnings it is our understanding Pickwick Stages would receive its full local fare from Southern Pacific for all tickets of Southern Pacific collected on its stages. Thus Southern Pacific Company would be assuming part of the passengers' stage transportation.

We are of the opinion the proposed adjustment would result in discrimination between persons and violate Section 21, Article XII of the State Constitution and Section 19 of the Public Utilities Act, both of which prohibit discriminations in the charges or facilities for transportation made by any railroad or other transportation company. Where an interchange of tickets is authorized between the same points served by competing carriers the fares must be of equal volume, and any other arrangement would be unlawful.

The record shows that practically all of the passengers carried between Niland and Calexico on the Southern Pacific local trains to be discontinued, consist of those traveling to points

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either beyond Niland or beyond Calexico. Apparently because of the more frequent schedules and more convenient route, local passengers prefer and do now use the Pickwick Stages at the higher fares.

From the record herein it is clear beyond doubt that the operations of the passenger train service proposed to be discontinued are not justified by the patronage offered; that the amount of revenue in comparison with the operating cost places an undue burden on applicant and its patrons, and that the unprofitable passenger train services should be discontinued. It is also clear from the record that adequate and efficient service in the territory affected by the order herein can be provided by the Pickwick Stages System between Niland and Calexico and the intermediate points. We recommend, in case Southern Pacific Company and Pickwick Stages System cannot agree upon uniform local fares between Niland and Calexico, that the honoring of Southern Pacific tickets on the stages be limited to the holders of through transportation covering movements beyond Niland or beyond Calexico.

Pickwick Stages System 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 as to the number of rights which may be given.

ORDER .

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 it is, hereby granted to Southern Pacific Company to discontinue the operation of its passenger trains Nos. 153, 154, 155 and 156 on its Los Angeles Division, between Niland and Calexico, subject to the following conditions:

1. The discontinuance of said trains shall be coincident with the establishment of a motor coach service to be provided by Pickwick Stages System between Niland and Calexico and intermediate points.
2. The public shall be given at least five (5) days' notice of the discontinuance of said trains and the establishment of said motor coach service, by posting notices on trains and in stations affected, and also by publication of such notice in newspapers having general circulation in the Imperial Valley.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Pickwick Stages System of an automobile service for the transportation of passengers, baggage and express, between Calipatria and Niland and intermediate points, as an extension of the service Pickwick Stages System is now performing between Calexico and Calipatria and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such an extension be, and the same is, hereby granted to Pickwick Stages System, and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for an automotive passenger stage service for the transportation of passengers, baggage and express between Calexico and Niland and intermediate points be,

and the same is, hereby granted to Pickwick Stages System; said certificate to be in lieu of, and not in addition to, the certificate for the extension granted herein and the existing certificate of Pickwick Stages System between Calexico and Calipatria, with the understanding that said in-lieu certificate is granted subject to the following conditions:

1. That express shall be transported only on the passenger stages of applicant, and shall be limited to packages weighing not more than 100 pounds each, except such express as is transported for Railway Express Agency, Inc., which may be transported without limit as to size of package or vehicle.
2. That if tickets of the Southern Pacific sold for use locally between Niland, Calexico and the intermediate points are accepted by the Pickwick Stages System, the published fares between these points shall not be greater or less than the fares published by the Southern Pacific Company between the same points.
3. That the rules and regulations in use over the general system of Pickwick Stages System shall be filed as the rules and regulations for the service herein authorized.
4. That the certificate herein granted may be, and is, hereby consolidated with existing rights of Pickwick Stages System covering service in Imperial Valley.
5. That Pickwick Stages System shall file, within thirty (30) days from the date hereof, an acceptance of the in-lieu certificate granted herein.
6. That Pickwick Stages System shall file within thirty (30) days from the date hereof, tariffs of rates and time schedules covering said service, such tariffs and time schedules to be in form and substance satisfactory to the Railroad Commission of the State of California, and shall start operation of the service herein authorized coincidental with the discontinuance of train service by Southern Pacific Company herein authorized.
7. That Pickwick Stages System shall be, and it is, hereby authorized to pick up or discharge passengers at depots of Southern Pacific Company at points shown on map attached to Application No. 16243 and marked Exhibit "A".

8. 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.
9. 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.

IT IS HEREBY FURTHER ORDERED that 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.

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 12th day of April, 1930.

C. L. Seavey

Leon A. White

John S. Lewis

W. J. Carr
Commissioners.