

Decision No. 23050

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GEORGE C. COWART
for a certificate of public convenience and necessity to operate an automobile stage line for the transportation of passengers, baggage, freight, and express for compensation between Pacific Grove, Carmel, Carmel Mission, and the junction of the Monterey-Jamesburg County Road with the Coast Highway, and intermediate points.

ORIGINAL

Application No. 16570

Harry A. Encell, for Applicant
A. J. Mason, for Bay Rapid Transit
Company, Protestant
Fred A. Wermuth, for Carmel Freight
Line, Protestant.

BY THE COMMISSION:

O P I N I O N

GEORGE C. COWART has made application for a certificate of public convenience and necessity authorizing operation of passenger, baggage, express and freight service between Pacific Grove and Carmel and Carmel Mission, and the junction of Monterey-Jamesburg County Road, a distance of 6.8 miles.

A public hearing thereon was held by Examiner Williams at Pacific Grove.

Applicant is an experienced stage operator in the Monterey peninsula, having been a Pickwick Stage representative there for six years. According to his testimony the service proposed is in response to public demand, both at Pacific Grove and Carmel, for a direct line not passing through Monterey. Such an operation is now possible by the construction of a new road diverting from the Monterey-Carmel highway to the northwest and passing to the west of the Presidio grounds.

Applicant proposes 12 trips in each direction from May 1, to October 1, each year, with fewer schedules in the other

months for passenger, baggage and express service. He proposes to use three 26-passenger stages of the safety type. For freight transportation he proposes to use one 2-ton truck. As applicant's showing of the need of truck service is meager and insufficient, we believe this portion of the proposed service should be denied without further consideration. Freight for Carmel is delivered by rail at Monterey because of cheaper rate, and the volume to Pacific Grove destined to Carmel is negligible. The showing of need for passenger service, however, is more certain. Witnesses for applicant, from both termini, expressed the opinion that the service as proposed is necessary. They asserted that the new road, just completed, was constructed solely to avoid the longer route through Old Monterey, and that public transportation is necessary, as many have no automobiles. Among those so testifying was Rev. C. T. Kerfs, Pastor of St. Anthony's Church at Pacific Grove, Rev. Philip G. Scher, Pastor of Carmel Mission, W. R. Holman, Pacific Grove department store owner, Mrs. Jules B. Platt, of Pacific Grove, and Norman Astley of Carmel Woods. Mr. Holman testified that he ships on an average of ten packages, daily to Carmel and vicinity and maintains a delivery service. He further testified that there are 250 residences on the new road; that 3200 persons signed the petition for the construction of the new Pacific Grove-Carmel highway. It was also shown that approximately 500 residents of Pacific Grove are remote from the service now maintained by Bay Rapid Transit Company, protestant herein. The testimony produced by applicant gives evidence of both need and convenience of a connection between Pacific Grove and the Carmel area via the new highway.

Bay Rapid Transit Company, the fictitious name of Mason & Spoon, a partnership, protestant herein, operates stage service

between Pacific Grove, Monterey, Carmel and Highland Inn. A 15 minute schedule is maintained between Pacific Grove and Monterey. Seven round trips are maintained daily between Monterey and Carmel, four of these trips being extended to Highland Inn, a resort south of Carmel. For this extended service to Highland Inn the protestant is subsidized by the payment of \$100.00 a month by the hotel owners. Mr. Mason also testified that the service between Monterey and Carmel, including the extension to Highland Inn, is not profitable. Traffic check, Mr. Mason testified, showed that 92 persons used this service in 1929, and 91 a day in 1928, of which fifty per cent were received from the rail and stage carriers, and less than ten per cent from the Pacific Grove service. He further testified that early morning and late evening schedules operated for two months did not earn the cost of fuel.

Applicant proposes to use three 21 passenger vehicles (from May to October) between Pacific Grove and Carmel and the junction of the Coast Highway and Jamestown road on an hourly schedule of 24 one way trips daily. The approximate distance of each trip is seven miles, making a total mileage of 168 operating miles. Operating cost is estimated by him at 25 cents per mile of \$42.00 per day. Assuming an average fare of 25 cents per passenger, it would require 168 passengers daily to recover cost of operation. The record is not convincing that there is such volume of traffic available over the route proposed though there is proof that the service as proposed will be, at least, a great convenience to many. Nor is there proof that the service of protestant, Bay Rapid Transit Company, is inadequate for local purposes in the territory now served by it.

It is our conclusion, therefore, that applicant, while proving convenience and need of part of the service proposed, has imprudently offered much more than will be used by the public.

From October to May two schedules each way daily appear ample. For the summer season some increase may be necessary. The certificate sought, as to passenger service, will be granted with certain restrictions, and together with express service limited to 100 pounds to be carried only on the passenger vehicles. As to freight service, the application will be denied. An order accordingly will be entered.

George C. Cowart 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.

ORDER

George C. Cowart having made application for a certificate of public convenience and necessity to establish and operate automotive service for the transportation of passengers, baggage and express and freight between Pacific Grove and Carmel and the junction of Coast Highway and Jamesburg road; a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of an automobile passenger stage service for the transportation of passengers, baggage and express between Pacific Grove and the intersection of Coast highway and Jamesburg road, approximately one mile easterly of Carmel, and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to George C. Cowart, subject to the following conditions:

1- That the route to be followed shall be as follows:

Beginning at the intersection of Lighthouse Avenue and Forest Avenue in the City of Pacific Grove; running thence northerly along Forest Avenue to Ocean View Avenue; thence westerly along Ocean View Avenue (Boulevard) and Briggs Street to Pacific Grove Beach and the Southern Pacific depot; thence from the Southern Pacific depot at Pacific Grove easterly to 19th Street; thence southerly to Lighthouse Avenue; thence easterly along Lighthouse Avenue to Forest Avenue; thence southerly along Forest Avenue to David Avenue; thence along the new Pacific Grove-Carmel highway, which said road begins at the city limits of Pacific Grove and ends a distance of 2.9 miles therefrom at a point known as the summit of Carmel Hill; thence in a southwesterly direction along Camino del Monte to Serra Fountain; thence along Serra Avenue to Junipero Avenue to the city limits of Carmel; thence along Junipero Avenue to Camino del Monte; thence southwesterly along Camino del Monte to San Carlos Street to Ocean Avenue; thence along Ocean Avenue to Dolores Street to the Post Office at Carmel; thence southerly on Dolores Street to Seventh; thence easterly on Seventh Street to San Carlos Street; thence southerly along San Carlos Street to 15th Avenue; thence easterly along 15th Avenue to Rio Road; thence in a southeasterly direction along Rio Road to Carmel Mission; thence along Rio Road to the point of intersection of Rio Road with the Carmel-San Simeon Coast Highway; thence along the County Road in an easterly and northerly direction to the point of intersection of said County Road with the County Road extending between Monterey, Carmel Valley and Jamesburg; thence back over and along said route to the point of commencement.

2- That no local service may be performed between the City of Pacific Grove, on the one hand, and the intersection of Pacific Grove-Carmel highway and Monterey-Carmel highway, and the intersection of Rio Road and the Carmel-San Simeon Coast Highway and intermediate points, on the other hand. Neither may any local service be given between the intersection of Pacific Grove-Carmel Highway and Monterey-Carmel Highway, and the intersection of Rio Road and the Carmel-San Simeon Coast Highway and intermediate points.

3- That express may be transported only on passenger vehicles operated by applicant, and that no express package weighing in excess of 100 pounds shall be transported.

4- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

5- Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted.

6- Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.

7- 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.

8- 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.

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

IT IS FURTHER ORDERED that insofar as the application proposes freight service, it is hereby denied.

Dated at San Francisco, California, this 6th day of November, 1930.

C. C. Shaver

Leon Whiteall

W. J. C.
COMMISSIONERS.