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Decision No. 23503

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MONTICELLO UTILITY CORPORATION,
a corporation, for a certificate of
public convenience and necessity
authorizing it to extend its exist-
ing service so as to be permitted to
transport persons, property and express
between Monticello and Sacramento, serv-
ing all intermediate points, except
Davis and points intermediate to Davis
and Sacramento.

ORIGINAL

Application No. 16979

Gwyn H. Baker, for Applicant.
Sanborn, Roehl, Smith & Brookman,
by A.B. Roehl, for Beverly Gibson,
Protestant.
W. L. Warner, for Warner's Autotruck
Line, Protestant.

BY THE COMMISSION:

O P I N I O N

Applicant corporation seeks an extension of its passenger, express, baggage and freight service, authorized by Decision No. 18651 on Application No. 13840, dated July 21, 1927, between Monticello and Winters, to Davis, for passengers, baggage and express, and to Sacramento for freight.

Public hearings were conducted by Examiner Williams at Monticello and Sacramento.

Applicant operates two services, one from Monticello to Napa and another from Monticello to Winters. His is the only established public service on either route. The services are maintained under separate rights and are not consolidated. The extension, therefore, is of the particular right between Monticello and Winters (Decision No. 18381 on Application No. 13262, dated May 18, 1927). At Winters applicant's service

connects with the stage service of Beverly Gibson, operating under the name of River Auto Stages, between Winters and Sacramento. Applicant desires to extend to Dixon "Y", Davis Junction and Davis, and to make connection with stages of Pacific Greyhound Lines, for passengers, express and baggage only. Applicant also connects with the certificated freight service between Winters and Sacramento, operated by W. L. Warner under the name of Warner's Auto Truck Line. Applicant desires to extend his freight service from Winters to Sacramento for all shipments from points west of Monticello. Applicant asserts that these present connections are inconvenient to both passengers and property.

The connection at Winters requires a wait of two hours en route to or from Sacramento. Formerly, the Gibson service operated five schedules daily between Winters and Sacramento, and at that time there was a close connection with applicant's service. Now, traffic decrease has reduced these schedules to three daily and none except one, at 6:15 p.m., is available for passengers, express or baggage brought into Winters by applicant at 2:35 p.m. by his only daily schedule between Monticello and Winters. The record also shows that applicant is using only one vehicle, capable of handling seven passengers and two tons of freight, on both of his routes, having a schedule to Napa in the morning, and to Winters in the afternoon. Because of such reduced operation, and for the purpose of delivering or receiving freight at the Southern Pacific depot at Winters, applicant asserts that he cannot change his schedule to a nearer connection with the Gibson service.

Applicant presented as witnesses to public necessity for the extension proposed, J. H. Eccleston, Assistant Manager of the Berryessa ranch, engaged in fruit, sheep and grain pro-

duction on a 7900-acre ranch (1200 under cultivation) and employing variously 30 to 150 men. The labor supply is chiefly from Sacramento, with a large turnover. Mr. Eccleston testified that he had little difficulty in getting labor under present conditions. The business has very little freight moving to Sacramento and uses its own trucks in shipments of more than five tons. R. P. Keeble, operating a ranch of 1932 acres, producing fruit, stock, grain and hay, and employing from 3 to 50 men, testified that the long wait at Winters between stage schedules causes complaint from laborers. He, too, uses his own trucks for shipments, only shipping "small stuff" by stage. Complaint of the connection at Winters also was voiced by Mrs. E. W. Cottrell and W. H. Adams of Monticello. E. E. Carver, rancher near Monticello, testified that he and his family might use the stage to Davis and train to Sacramento; as he sells f.o.b. ranch, he was not interested in shipping.

At the Sacramento hearing applicant produced no testimony except his own further testimony as to a direct connection at Davis Junction with Pacific Greyhound Lines and presenting petitions signed by 109 residents of the Berryessa district supporting his application. On cross-examination he admitted that the proposed connection at Davis Junction would cause a wait of one hour and two minutes, due to recently changed Pacific Greyhound schedules.

Protestant Gibson introduced several exhibits showing his operation between Winters and Sacramento is unprofitable and that seat occupancy of the vehicle operated is only about 20 per cent of the available total in 1930 (Exhibit No. 10). Protestant's Auditor, H. Repp, testified that the loss on the operation in 1928 was \$8470, in 1929, \$9007, and in 1930 (under reduced schedules) was \$7149. Also, an exhibit showing that

applicant's fares as proposed are not materially different from those of protestant, who is now furnishing service for passengers, baggage and express (Exhibit No. 7). Applicant contends that protestant Gibson has no valid right to serve Davis Junction and other intermediate points. He cites Decision No. 23010 on Application No. 16564 of Gibson for authority to sell and transfer this certificate between Sacramento and Winters to Pacific Greyhound Lines. Careful study of this decision finds therein no determination of any of Gibson's intermediate rights. In fact, the decision states that there is no intention to pass on them. No other decision determines them, and in the absence of prior determination the record before us does not justify any finding as to those rights at this time, and hence we must take protestant Gibson's status as we find it.

Analysis of the record and exhibits results in establishing that applicant does not propose a much different service between Winters and Davis and Winters and Sacramento than is now maintained by protestant Gibson. There is also lacking adequate proof that a new competitive service is needed, or, indeed, any additional service. That applicant would use another vehicle on an early morning and evening schedule is not assuring, as he will practically be duplicating schedules already in force by Gibson and Warner. There is no testimony to support another freight service between Winters and Sacramento. For these reasons the application should be denied, and an order accordingly will be entered.

ORDER

MONTICELLO UTILITY CORPORATION having made application to extend its operating rights from Winters to Sacramento for the transportation of persons and property excepting Davis and points intermediate to Davis and Sacramento; a public hearing having been held, the matter having been duly submitted on briefs, which have been filed, and now being ready for decision,

IT IS HEREBY ORDERED that the application herein be; and the same hereby is denied.

Dated at San Francisco, California, this 16th day of March, 1931.

C. A. Curry
Leon Whidney
M. J. Curran
M. B. Harris
Fred G. Stewart
Commissioners.