

Decision No. 22545

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PICKWICK-GREYHOUND OF CALIFORNIA, LTD.,
 a corporation, for a certificate of
 public convenience and necessity au-
 thorizing the operation and extension
 of its automobile stage service as a
 common carrier of passengers, baggage
 and express, between Los Angeles and
 the California-Nevada State line north
 of Wheaton Springs and intermediate
 points, and between Los Angeles and the
 California-Arizona State line east of
 Needles, California, and intermediate
 points, and to grant such certificate
 as an extension and in lieu of appli-
 cant's existing operations over said
 routes.

ORIGINAL

Application
No. 16705

In the Matter of the Application of
 UNION PACIFIC STAGES OF CALIFORNIA,
 a corporation organized under the
 laws of the State of California, for
 authority to issue and sell certain
 of its shares.

Application
No. 16766

In the Matter of the Application of
 UNION PACIFIC STAGES OF CALIFORNIA,
 a corporation, organized under the
 laws of the State of California for
 a certificate of public convenience
 and necessity, authorizing it to
 operate a motor bus service between
 San Bernardino, California, and the
 California-Nevada State Line, all in
 San Bernardino County, California.

Application
No. 16767

- Libby & Sherwin, for Pickwick-Greyhound
of California, Ltd., Applicant.
- E. E. Bennett and H. B. Ellison, for Union
Pacific Stages of California,
Applicant.
- Frank Karr and R. E. Wedekind, for Motor
Transit Company, Protestant.
- E. T. Lucey and G. E. Harrison, for The
Atchison, Topeka and Santa Fe Ry. Co.,
Protestant.
- Mark Thompson and Edward Stern, for Railway
Express Agency, Inc., Protestant.
- Paul Shafer, for Victorville Motor Express,
Protestant.

BY THE COMMISSION:

O P I N I O N

Applicants herein seek authority to establish local service in California on interstate stage lines now operated by them between Los Angeles and Salt Lake City and Denver. No new service or schedules are proposed, it being the plan of both applicants to receive passengers and express on their regular interstate stages which, according to exhibits submitted, appear not to be occupied more than 40 per cent by interstate passengers on the average. The applications are protested by The Atchison, Topeka & Santa Fe Railway and Railway Express Agency, Inc., operating train service from Needles, via Daggett and San Bernardino to Los Angeles. Union Pacific Railroad, operating service from the California State Line near Wheaton Springs, did not protest either application--in fact, the Union Pacific Stage Company is a subsidiary of the railroad company. Motor Transit Company, operating between Los Angeles and Oro Grande, via San Bernardino and Victorville, also protested both applications unless this Commission should approve the application of Motor Transit Company (App. No. 16733) to transfer its rights between San Bernardino and Oro Grande to Pickwick-Greyhound Lines. If this transfer is not approved, Pickwick-Greyhound Lines stipulated it would withdraw its offer of local service between Oro Grande and San Bernardino. Union Pacific Stages did not join in this stipulation. Both applicants seek authority to carry express on their stages to the limit of 100 pounds per package.

For convenience the applicants will be designated as Union Pacific, Pickwick, Motor Transit, and protestant as Santa Fe.

Public hearings thereon were held by Examiner Williams at Los Angeles, San Bernardino, Victorville, Barstow and Needles. During these hearings 106 witnesses were examined orally by the parties, and cumulative testimony of 73 others admitted by stipulation. In addition, 31 exhibits, including petitions signed by about 1500 persons, pro and con, were introduced. Of the 106 oral witnesses 54 were produced by Pickwick, 17 by Union Pacific, and 35 by Santa Fe and Railway Express Agency, Inc. The submission was subject to briefing by all parties and the briefs having all been filed, the submission is complete and the matters are now ready for decision.

The applicants propose the following services:

Union Pacific Stages -- This is a California corporation and intends to take over the California portion of interstate operation of Interstate Stages, a subsidiary of Union Pacific Railway, extending from Omaha to Salt Lake City, with branches to Los Angeles and San Francisco. Provision for financing this through stock issue is proposed in Application No. 17667 herein. Union Pacific Stages seeks a certificate only between San Bernardino and the California-Nevada state line, intending to deliver its intrastate passengers to "a connecting carrier" at San Bernardino, and proceed with interstate passengers to Los Angeles. The service, therefore, is a local one in character. It parallels the Union Pacific Railway from the state line to Daggett. From Daggett to San Bernardino the railroad company uses, under tenancy, the tracks of Santa Fe. Application is also made to issue certain shares of stock. Financial ability of this applicant was stipulated by the parties.

Pickwick-Greyhound of California, Ltd.-- Operates interstate stages between Denver and Los Angeles via Cheyenne and Salt Lake, and also via Albuquerque, Winslow, Arizona, and Needles, California. Thus it parallels both Union Pacific and Santa Fe

railways, though it is not permitted to give intrastate service in Arizona. It possesses equipment abundant for its purposes, as presented herein, and adequate financial resources. Pickwick, however, proposes to do a full intrastate business at all points in California on both routes, except between San Bernardino and Los Angeles. It stipulated it would give local service between Oro Grande and San Bernardino only if it is permitted by this Commission to acquire the local service now operated by Motor Transit Company between termini and intermediates (App. No. 16733, pending).

The testimony presented by applicants was generally of the same tenor. Witnesses testified that, as the stages traverse the highways (in all six stages each way daily) it would be convenient to board them to travel locally or for long distances. While a majority of the witnesses admitted that they owned and used automobiles, they asserted that in many instances, particularly where their automobiles were broken down, the privilege of boarding the stages became, very often, a dire necessity. Garage owners, service station and restaurant keepers at various points testified to numerous inquiries for stage service in both directions, a large portion of which was by persons whose automobiles had broken down en route. Others testified that many, including so-called "hitch-hikers" had asked them for rides because there was no stage available. Others asserted that members of their families would use stage service when the family automobile was otherwise engaged. This testimony related only to points north and east of Oro Grande and to points on the highways to Needles and to Wheaton Springs. In the main these witnesses asserted that the train service of Union Pacific and Santa Fe was inadequate as, in some instances, the stations were several miles from the communities and others stated what they regarded as a need for additional express service because first protestant Railway Express Agency does not make store

delivery except at Barstow and Needles and that at non-agency stations the consignee must receive the shipment at the car door or it will be left at trackside at owner's risk.

This abundant testimony, both as expressed orally and stated in the petitions filed by applicants, presents a plausible presentation, if weight accorded to it is placed along standards reasonable before the state was almost saturated by public and private transportation means. That any great weight should now be accorded it is, we believe, very doubtful. The burden of the testimony is that the services proposed are needed in addition to those existing and functioning at this time and mostly as a convenience. Practically all of the witnesses for applicants have automobiles which ordinarily they use for long or short trips.

It is within our judicial knowledge that in 1930 the census population of the state was 5,677,251. The report of F. G. Snook, chief of the California Division of Motor Vehicles for 1930, shows that 1,941,969 passenger cars were registered. This furnishes an average of one passenger car for each 2.8 of population, which is less than the accepted family ratio of 4.1. It is further shown by Mr. Snook's report and by the United States census that, with a density of population of only 6.6 per square mile in the 20,163 square miles in San Bernardino County, that county possesses 44,509 passenger cars in a population of 133,000 or a passenger car for every three inhabitants. It is also true that 120,000 of the population, approximately, are in the 500 square miles in the southwest portion, south of the San Bernardino mountains, and generally between Redlands and Ontario. As the proposed operations, existing and proposed, are wholly within San Bernardino County, we regard these statistics as germane to the consideration of the weight of the testimony in the instant applications.

Another feature shown by the record is the irregularity of operation as compared with scheduled times. By Exhibit No. 20,

it appears that in one month 29 busses were from 15 minutes to 7 hours and 30 minutes late in arriving at Los Angeles on the Pickwick run from Needles to Los Angeles. In 17 instances the reason for lateness was "Received car late," which means it was behind schedule when it reached Needles. In 12 instances "break downs" or mechanical or "tire trouble" were recorded. The 29 late arrivals aggregated 66 hours and 35 minutes or an average of two hours and thirty minutes, although the majority of late arrivals was less than the average.

While Pickwick expressed its purpose to protect local service by sending "Overload" cars on schedule when necessary, it must be apparent that this is delusory when it is recalled that the "Overload" need might occur at any place in a stretch of over 200 miles of desert territory. It is also true that the schedules of both applicants are made upon interstate needs and, while several are in the hours of the business day, they are not capable of alteration to suit local needs or time of arrival at San Bernardino or Los Angeles.

A test of the adequacy of the existing service is found in the fact that a passenger at Los Angeles or San Bernardino, and points intermediate, has nine rail services each way daily as far as Daggett. Of these services, five carry express. Of the nine services, three--one over Union Pacific Railway; and two over Santa Fe--are, during daylight hours, and three, similarly, over night. The record of tickets sold by Santa Fe to points, Victorville and Daggett, and intermediates (Exhibit No. 27) shows that 177 one-way and 30 round-trip tickets were sold from all points in February, 1929. In the same month of 1930, 137 one-way and 19 round-trip tickets were sold. In June, 1930, 122 one-way tickets and 31 round-trips were sold. Exhibit No. 26 shows that 266 one-way and 82 round-trip tickets were sold in November, 1929, from points, Barstow to Needles, to points, Victorville and south

thereof; while in May, 1930, 248 one-way and 97 round-trip tickets were sold. This all reflects the business of Santa Fe over its own lines from and to Los Angeles and San Diego. Union Pacific Railway Company presented no details of similar character. This shows a usage of the facilities existing by the public in the absence of stage competition. Unless applicants can show development of new business, it must appear that this service is adequate. To a speculative extent, this has been done, but largely by testimony as to third parties inquiring for stages or by witnesses who use their own automobiles except in emergencies, and the record is clear that the service of both railroads is efficient and, when it is not, due to distance of highway from rail (as between Yermo and the state line, 119-miles), this Commission has authorized Pickwick to furnish service to and from Los Angeles for passengers and express (Decision No. 20,676 on App. No. 14,682, dated January 17, 1929). The record shows that meager patronage is accorded this service.

Beyond these features of the perspective presented we have in the record the fact that protestant Santa Fe maintains four schedules daily between Needles and Los Angeles, by which a passenger may leave either terminus in the morning and complete his journey in ten hours, the same service available for intermediate points, or he may leave in the evening and by an overnight journey reach either terminus or intermediate points. It is also in the record and undisputed that protestant Santa Fe has an investment of \$35,000,000 in its Needles-San Bernardino Division (about 240 miles between termini) and meets a payroll of from \$550,000 to \$675,000 annually for division service, including these services available for local transportation. It is also of record that Union Pacific, which operates over Santa Fe tracks from Daggett to San Bernardino, withdrew, on September 1, 1930, its train schedules Nos. 203 and 204, and its trains

which furnish local service, because of lack of patronage. Protestant Santa Fe continues, however, to maintain its service between all points, including its local trains without diminution, although the operations of local service are not met with any encouraging degree of patronage. The territory served is sparsely settled, practically all desert incapable of development, and the residents of Needles and Barstow, particularly, are mostly employes of Santa Fe and enduring abnormal conditions of isolation and heat. To regard such service as inadequate is equivalent to authority to Santa Fe to suspend all local service and place sole reliance on stage service.

However, neither applicant proposes to undertake such a duty. Each offers only its stages now in interstate service, whose patronage does not approach more than 40 per cent of the capacity of their vehicles. No new investment is proposed by them, except as between intercorporate concerns for equipment already in use and the offer is limited to such seats as may be available on such interstate schedules. It is plain from the record that no patronage is available which will sustain an independent operation between the termini proposed and intermediates for either passengers or express or both. It was so admitted by applicant's witnesses. Pickwick also proposes not to compete with Motor Transit if it (Pickwick) is not permitted to take over the purely local operation of Motor Transit between Oro Grande and San Bernardino.

In consideration of the foregoing findings we must further find that public necessity and convenience do not require the services proposed by applicants herein. This finding also applies to Application No. 16,766, Union Pacific Stages of California, to issue stock, as the only purpose of this application is to finance that company's operations as proposed in Application No. 16767. All three applications should be denied, and such an order accordingly will be entered.

ORDER

PICKWICK-GREYHOUND OF CALIFORNIA, LTD., a corporation, having made application to the Railroad Commission to establish local passenger and express service in California over its interstate lines between Wheaton Springs and Los Angeles, via Daggett, and between Needles and Los Angeles, via Daggett; and

UNION PACIFIC STAGES OF CALIFORNIA, a corporation, having made application to establish intrastate passenger and express service over its interstate line between Wheaton Springs and San Bernardino; and

Union Pacific Stages of California having made application for authority to issue and sell certain of its shares, and

Said applications having been consolidated for hearing and decision; public hearings having been held thereon, the matters having been duly submitted, briefs having been filed, and the matters now being ready for decision,

IT IS HEREBY ORDERED that the applications herein, and each of them, be, and the same hereby are denied.

Dated at San Francisco, California, this 31st day of March, 1931.

C. L. Loney
Leon A. White
W. B. Harris
Fred G. Stevens
Commissioners.