

Decision No. 25332.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of (1) LOUIS DECKER, doing business under the fictitious firm name and style of HARVEY AVE. & HAZELWOOD BUS LINE, for certificate of public convenience and necessity to operate (2) a passenger automobile bus line as a common carrier in the City of Fresno and certain contiguous unincorporated suburban territory on the southeasterly border line of said city.

ORIGINAL

Application No. 18417.

James T. Barstow, for Applicant.

BY THE COMMISSION:

O P I N I O N

In this proceeding Louis Decker seeks a certificate of public convenience and necessity to operate buses over certain lines in and in the vicinity of the City of Fresno.

A public hearing was conducted in this proceeding before Examiner Hunter at Fresno on October 25, 1932.

Applicant herein is the operator of two local bus lines in Fresno. The so-called Harvey Ave. Bus Line extends from the business district of Fresno in a northeasterly direction for a distance of about three miles and the Hazelwood Line a like distance from the center of the city in a southeasterly direction. These two lines are connected so as to provide a continuous service over the two routes. The district served by this operation, aside from the business section traversed is residential and is not now

provided with any other local transportation service. On the average some 250 passengers are carried daily on applicant's lines.

Approximately one mile of operation at the end of each of the two lines is outside the city limits of Fresno. Applicant now operates two buses in this service with a headway of 30 minutes on week days and hourly on Sundays and holidays between the hours of 6:00 A.M. and 7:00 P.M. Previous to September 8, 1932, additional hourly service was provided between the hours of 7:00 P.M. and 11:00 P.M. This night operation was discontinued due to the fact that there was little use made of the service, the average earnings amounting to \$1.25 for the four-hour period, which was about one-quarter of the out-of-pocket cost of providing the service. The record shows that some public protest was raised to the discontinuance of night operation, as evidenced by a petition filed with the city, but after the matter of operating loss was explained to each of the signers of the petition, they withdrew their opposition. The record shows that in 1931 the revenue exceeded the out-of-pocket cost of operation, exclusive of depreciation, by only \$150.

The present fare on this system is 7¢ with a reduced rate of 4¢ for school children. No transfers are issued between applicant's system and the Fresno Traction Company, which operates the street car system serving Fresno.

A number of patrons of the line testified that they were wholly dependent upon this operation for public transportation and that in their opinion the service was reasonably adequate. No one appeared to oppose the granting of this application or directed criticism to the service.

In view of the fact that applicant's operations extend beyond the city limits of Fresno into the unincorporated portion of the county, it is clearly a public utility operation and, as such, comes under the jurisdiction of this Commission. The operators of this line should have made application to the Commission for a certificate at the time service was commenced on the Hazelwood Line some ten years ago, and on the Harvey Avenue Line about four years later. It appears that the lines up to the present time have been operated under a permit from the City of Fresno.

Mr. Louis Decker, applicant herein, who has been owner of this system for the past three years, testified that the first knowledge he had that this operation should be covered by a certificate of public convenience and necessity from the Commission came to him about three months ago and immediately thereafter he arranged for the filing of the instant application.

After considering the record in this proceeding it is concluded that public convenience and necessity directs granting to applicant a certificate of public convenience and necessity as applied for herein. With respect to that portion of the application seeking authority to operate a half-hourly service between the hours of 6:00 A.M. and 7:00 P.M., it is concluded that the order should not prescribe the hours of operation or headway under which the service will be performed, but if this operation is conducted as a public utility, it will be expected that the operator will provide reasonable and adequate service at all times.

Louis Decker 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.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter being under submission and ready for decision,

It is hereby found as a fact that public convenience and necessity require the operation of bus service over and along the

following route:

Commencing at 3411 Harvey Avenue in the City of Fresno, running thence west on Harvey Avenue to North First Street, thence south on North First Street to White Avenue, thence west on White Avenue to Thesta Street, thence south on Thesta Street to Belmont Avenue, thence west on Belmont Avenue to Valeria Street, thence south on Valeria Street to Merced Street, thence southwesterly on Merced Street to Van Ness Avenue, thence southeasterly on Van Ness Avenue to Kern Street, thence southwesterly on Kern Street to H Street, thence northwesterly on H Street to Mariposa Street, thence southeasterly around and following the loop of Mariposa Street in front of the Southern Pacific Depot to Tulare Street and following Tulare Street southeasterly to the intersection with H Street, thence from the intersection of Tulare and H Streets southeasterly on H Street to Kern Street, thence northeasterly on Kern Street to O Street, thence southeasterly on O Street to Butler Avenue, thence easterly on Butler Avenue to Eleventh Street, thence north on Eleventh Street to Liberty Street, thence west on Liberty Street to North Sixth Street (Orange Avenue), thence north on North Sixth Street (Orange Avenue) to Lowe Avenue, thence west on Lowe Avenue to South Second Street, thence south on South Second Street to Butler Avenue, thence from the intersection of Butler Avenue and South Second Street west to the intersection of Butler Avenue and O Street, thence northwesterly on O Street to Kern Street, thence southwesterly on Kern Street to Van Ness Avenue, thence northwesterly on Van Ness Avenue to Merced Street, thence northeasterly on Merced Street to Valeria Street, thence north on Valeria Street to Belmont Avenue, thence east on Belmont Avenue to Millbrook Avenue, thence north on Millbrook Avenue to Harvey Avenue, thence west on Harvey Avenue to the point of commencement, being a route of approximately eleven miles.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service be and the same is hereby granted to Louis Decker, doing business under the fictitious name and style of Harvey Avenue and Hazelwood Bus Line, subject to the following conditions:

- (1) Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- (2) Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than

ten days' notice to the Commission and the public 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 in so far as they conform to the certificate herein granted.

- (3) Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules, according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (4) 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.
- (5) 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.
- (6) Applicant is authorized to turn his motor vehicles at termini either in the intersection of the streets or by operating around a block contiguous to such intersection in either direction and to carry passengers as traffic regulations of the municipality may require.

The authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 7th day of November, 1932.

C. Seaver
Leon S. White

M. B. Karp
Fred G. Stewart
Commissioners.