

Decision No. 10320

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
the MOTOR TRANSIT COMPANY for a cer-
tificate of public convenience and
necessity permitting it to make cer-
tain extensions of its existing auto-
mobile stage line service.

ORIGINAL

Application No. 6466.

In the matter of the application of
J. C. BEST for certificate of pub-
lic convenience and necessity to op-
erate passenger auto stage service
between Colton and San Bernardino
on one hand and points Arlington to
Santa Ana on the other.

Application No. 6507.

H. W. Kidd and F. D. Howell for applicant
Motor Transit Company.

Adair and Winder, for J. C. Best.

Frank Karr, by O. A. Smith, J. D. Taggard
and R. C. Gortner, for Pacific Electric
Railway Company.

T. A. Woods, for American Railway Express
Company.

William Guthrie for City of San Bernardino
and San Bernardino Chamber of Commerce.

Charles L. Allison for San Bernardino Chamber
of Commerce.

Lester G. King, for San Bernardino Chamber
of Commerce.

E. W. Phipps, for Merchants Association of
San Bernardino.

Sam P. Coy, for Colton Chamber of Commerce.

A. E. Isham, for Redlands Chamber of Commerce.

Paul Burks and W. R. Dowler, for The Atchison,
Topeka & Santa Fe Railway Company.

W. H. Powell, for the G. & W. Stage Company.

F. K. Beyerle, for the Murietta Stage Company.

BY THE COMMISSION:

O P I N I O N

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile passenger and freight service as a common carrier of passengers, freight and express between Riverside and San Bernardino, via Colton and intermediate points, and between Riverside and Redlands via Loma Linda and intermediate points, together with the authority to link up and combine said proposed operations for a through passenger and freight service with applicant's existing lines between Riverside and all points on the "One Hundred and One Mile Drive" in the San Bernardino mountains, as well as for a through passenger service between Los Angeles and Redlands via Riverside and also via San Bernardino.

Applicant proposes to charge rates and to operate on time schedules in accordance with Exhibits "B" and "C" and "D" attached to said application, and Exhibit "K" filed at the hearing. Applicant proposes to use all necessary White trucks of a similar kind to those now used in other operations upon its system.

Applicant proposes to blanket rates from Riverside, San Bernardino and Redlands to mountain points. At present San Bernardino and Redlands are both on a direct route to and from San Bernardino mountain resorts. Riverside is south of San Bernardino approximately twelve miles further distant from any of the mountain points, and there is no traffic condition justifying its inclusion with the other points named. Blanket rates made co-extensive with areas of production or to marketing centers are usually a great public convenience, but such blanket rates must be applied without discrimination or injury to any point or locality. The evid-

ence did not show that the blanketing of Riverside with San Bernardino and Redlands would develop any new business nor result in reduced prices to consumers, but would only serve to increase the amount of business done by Riverside merchants in the mountain territory. There was no evidence as to why the applicant intended blanketing Riverside with San Bernardino and Redlands, except that it would give Riverside the same advantage in so far as freight charges and passenger fares are concerned, as the other two points of the triangle.

The Motor Transit Company has, since the hearing, by authority of this Commission, acquired and now exercises all of the franchises and operative rights of the Mountain Auto Line, which transports passengers, freight and express from San Bernardino and Redlands to all points over the "One Hundred and One Mile Drive" in the San Bernardino mountains.

Applicant now operates out of Los Angeles lines of automobile passenger stages to Riverside via Pomona and Ontario and also to San Bernardino and Redlands, and this proposed service would establish triangular operations between Riverside, Redlands and San Bernardino, as well as a through service from Los Angeles to Riverside, thence through to Redlands and coming back via San Bernardino to Los Angeles and vice versa.

J. C. Best has petitioned the Railroad Commission, in accordance with his application amended at the hearing, for an order declaring that public convenience and necessity require the operation by him of an automobile passenger line as a common carrier of through passengers only between San Bernardino and Colton on the one hand, and Santa Ana to Corona, inclusive, on the other hand, via Riverside.

Applicant proposes to charge rates in accordance with Exhibit "A" attached to said application and to operate on an amended time schedule in accordance with Exhibit "F" filed at the hearing, using as equipment 16-passenger Reo busses now in operation in his present service.

Public hearings were held at Riverside and San Bernardino before Examiner Satterwhite on both applications, which were consolidated for the purpose of receiving evidence; the matters were finally submitted and are now ready for decision.

Each of said applicants protested the granting of the application of the other.

The Pacific Electric Railway Company, The Atchison, Topeka & Santa Fe Railway Company and Marietta Stage Company also protested the granting of both applications.

The City of San Bernardino, Merchants Association of San Bernardino and the Chambers of Commerce of San Bernardino, Redlands, Highland, Chino and Colton, appeared as one group in opposition to the granting of the application of the Motor Transit Company.

Motor Transit Company proposes to put into effect a through freight, express and passenger service from Riverside, via Colton, to San Bernardino and thence over its Mountain Auto Line to the various points and resorts on the "One Hundred and One Mile Drive" in the San Bernardino mountains, and likewise proposes to put into effect similar through passenger and freight service from Riverside to Redlands and thence into the said mountains.

The "One Hundred and One Mile Drive" is a well known mountain highway by which is reached all of the resorts in and near Big Bear Valley on its east end, and Little Bear Valley, Pine Crest, Squirrel Inn, Skylands and other re-

sorts on its west end.

The testimony of the Motor Transit Company shows that there are twenty-five resorts and fifteen stores in Big Bear Valley, as well as other stores at Little Bear Valley, Strawberry Flats, Pine Crest and other points. San Bernardino and Redlands are at present, and have been for a great many years, the two principal outfitting points for all the resorts in the San Bernardino mountains, and have been the termini of the Mountain Auto Line since 1911. On account of the geographical location of San Bernardino and Redlands to the San Bernardino mountains they have been the chief centers of outfitting and supplies for all points in these mountains.

The testimony shows, however, that wholesale merchants in Los Angeles, fifty miles west, and merchants in Riverside, twelve miles south from San Bernardino, have always enjoyed a profitable share of the business from these mountain resorts.

The Motor Transit Company called five or six wholesale merchants of Riverside in support of its proposed service. These merchants, who respectively deal in groceries, meats, butter, eggs, dairy products and other staple food products, do a large and lucrative business in all the valley and mountain towns to the east, southeast and southwest of Riverside, and maintain a free fast and efficient truck service in the delivery of their goods to maximum points of thirty miles distant. They favor applicant's proposed service on the sole basis that the proposed free haul to San Bernardino will save them the cost of that delivery and put them on a parity with San Bernardino and Redlands merchants and thereby afford them an improved opportunity to enlarge the San Bernardino mountain patronage they now enjoy.

Several of these Riverside dealers frankly admitted at the hearing that they had no interest in the proposed service unless the parity of rates was authorized.

Mr. Dad Skinner, a witness for this applicant, conducts the Pine Knot Lodge and a store at Big Bear Valley. He and some other resort owners desire this service on the ground that if these Riverside dealers are placed on an equal rate basis with San Bernardino merchants, the opportunity will be given to resort owners to precipitate between these dealers a competitive contest; and the following excerpt from the testimony of Mr. Skinner clearly indicates their interest and purpose:

"For instance, Cudahy (San Bernardino meat dealer) offered me a discount on thirty ribs and loins and I got Mr. Oehls (San Bernardino meat dealer) on the 'phone and I read the letter to him and he said, 'That is a good price, but I will meet it.' He shipped thirty ribs and loins and I called the Cudahy people up and told them that I would accept their price and they shipped it, which amounted to a hundred and twenty some dollars saving. So, if I have Wilson (Riverside meat dealer) in the same place I will have a nice three-cornered fight."

There is no testimony in the record that these Riverside merchants or resort owners intend to reduce their prices or charges to the general public, but, on the contrary, there is direct evidence that no reduction of prices will be made.

The Chamber of Commerce of Riverside, by resolution, declined to endorse the proposed passenger service of this applicant, but favors the proposed freight service on the sole, limited and particular basis that the merchants of Riverside will be enabled to increase their business with re-

sorts in the San Bernardino mountains.

This Commission has clearly heretofore established the doctrine that certificates to operate an auto stage or freight service shall be granted or withheld upon the basis of whether the rights, welfare and interest of the general public will be advanced by the prosecution of the enterprise, and not upon the private benefit or advantage that may accrue to any carrier, shipper or consignee.

In support of the proposed passenger service of this applicant, testimony was introduced to the effect that there have been about an average of four inquiries daily at Redlands and about a dozen inquiries at Riverside for auto stage service between these two communities, but there was little or no evidence of any desire or demand for stage service between Riverside and San Bernardino.

It appears that there are about seventy-five families at Riverside who spend their vacations in the San Bernardino mountains and that a portion of these would avail themselves of this stage service, but it was shown by the testimony of protestants that the great majority of these families use their own private automobiles and either carry their own supplies with them or buy them from the stores at the various mountain resorts. The record shows that the Mission Inn Hotel at Riverside from time to time, at its own expense, transports overland tourists by private automobile or taxicab to the Mountain Auto Line at San Bernardino, for the reason that this class of travellers can not be subjected to any inconvenience of waiting for the Pacific Electric service, and that applicant's proposed through service would meet the demands of this particular class. This Commission has never recognized any class distinctions in the regulation of public service.

Loma Linda is an intermediate point between Riverside and Redlands. It is in reality a sanitarium and not a settlement, and its patients, nurses and employes aggregate about 700 or 800 persons. It operates a small factory for the production of health foods, especially for the institution, and conducts both at San Bernardino and Redlands small stores for the sale of their health products. Some sales are made at Riverside, where no store is conducted, and the Riverside merchants who handle these health foods often transport them in their own delivery trucks. Most of the supplies for the institution are obtained in wholesale quantities at Los Angeles by a purchasing agent. The record shows that the volume of passenger traffic between this institution and Riverside is small; that there are three medical students and one stenographer who attend daily from Riverside, together with a few or limited number of visitors who either use their private machines or the service of the Motor Transit Company and the Pacific Electric Railway through San Bernardino.

Some evidence was offered by the Motor Transit Company to the effect that there are about 160 employees of the California Portland Cement plant, just south of Colton, who live in Colton and San Bernardino and would avail themselves of this proposed auto stage service. W. C. Hanna, chief chemical engineer for this plant, having direct knowledge of the facts, testifying for the Pacific Electric Company, showed, however, that, out of the 450 employees of this plant, 410 live right near and only 40 away from the plant, and that two-thirds of all the employees are Mexicans. Many of those living away from the plant own their own automobiles or use bicycles, and the others are entirely satisfied with the Pacific Electric service. - Applicant offered little or

no evidence concerning the need of this service at any other intermediate point, but indicated its hope and expectation that if the service is authorized, a roadside business could be developed.

The Pacific Electric Railway Company offered in evidence its time schedules and rates and fares in effect on its line between Riverside, San Bernardino and Redlands and all intermediate points. The evidence shows that this rail carrier operates twenty-six fast electric trains daily in each direction between these three cities, and maintains practically an hourly service between the hours of five in the morning and twelve o'clock midnight. The seating capacity of their cars ranges from sixty to twenty passengers.

Four exhibits were offered in evidence by this protestant, showing an on and off check of actual travel for one day shortly before the hearing, between these three cities, which clearly shows that the volume of passenger traffic is far below the seating capacity of its cars, and that its cars are seldom fully loaded.

A check made by this carrier of tickets sold by agents at Riverside and Redlands shows that the combined or total sales of tickets between these two points for January, February and March in 1921, was, for one way, only 408, and for round trips only 394, which makes an average of about 16 single trips per day both ways.

This carrier, with reference to Loma Linda passenger service, makes also direct connections at Colton with the Southern Pacific Company, which has two trains in each direction that stop at Loma Linda.

O. A. Smith, general passenger agent of the Pacific Electric Company, testified to the effect that this

protestant renders an adequate and satisfactory service in every respect and is able and willing to furnish all necessary equipment and maintain time schedules suitable to its patrons and the general public. The record shows that this rail carrier has always adequately and efficiently met all peak demands of large passenger movements to such events as the San Bernardino Orange Show and other annual festivals and holidays.

The group of protestants in San Bernardino county called a large number of wholesale and retail merchants, business men and county officials, residing respectively at San Bernardino, Redlands and Colton, in protest against these applications. Their testimony shows almost a unanimous sentiment against the granting of the application of the Motor Transit Company.

It appears that for many years at San Bernardino various wholesale dealers and retail merchants have maintained and conducted large establishments for the sale of all staple foodstuffs and all supplies, goods and materials of every kind and character, and for years and past seasons have met every demand of all classes visiting and sojourning and doing business in the San Bernardino mountains. Nevertheless, they have had to meet the active competition of numerous dealers in other cities of Southern California, particularly jobbers at Los Angeles and Riverside, who have used either the facilities respectively of the Pacific Electric Company and other rail carriers, or their own auto truck deliveries, and after absorbing transportation costs have enjoyed their own profitable share of business in the San Bernardino mountains.

In this connection the record shows that the Pacific Electric Railway has adequately and satisfactorily trans-

ported from Los Angeles and other points all freight, both perishable and otherwise, consigned to it and destined to the mountain trade.

Practically every witness from the communities of the protestant group testified that the service of the Pacific Electric Railway Company is adequate and satisfactory, and that no need or demand exists for the proposed Motor Transit line. With reference to the desire of the applicant, Motor Transit Company, to place Riverside in the same geographical zone as San Bernardino and Redlands, testimony was offered by the protestant group of San Bernardino county to show that at no time did Riverside ever join or offer to join in the expenditure of tens of thousands of dollars specially raised by bond election and appropriation out of the treasury of San Bernardino county for the construction and maintenance respectively of the San Bernardino mountain highways and their approaches. The testimony of Rex B. Goodcell, judge of San Bernardino county and president of the San Bernardino Chamber of Commerce, is a clear and concise summary of the absence of any necessity for this proposed stage and truck service. He had interviewed half the merchants in San Bernardino, as well as a hundred business men, and they all had endorsed the adequacy of the existing rail facilities and were unalterably opposed to the proposal of the Motor Transit Company, as being unfair, unjust and unnecessary, of artificially including Riverside in the same geographical district as San Bernardino and Redlands.

Dr. J. N. Baylis, who conducts the largest resort on the western end of the "Rim of the World Drive," near Little Bear Lake, has purchased for fourteen years all his supplies from San Bernardino merchants, and testified that

his every demand had been met and that there was no necessity for this proposed service.

We have given careful consideration to all the evidence in this proceeding, and are of the opinion and find as a fact that the Motor Transit Company has presented no evidence to justify the authorization of its proposed additional passenger and freight service. By its admissions in the record, this applicant concedes that the present demands are so limited that at the outset neither the freight nor the passenger service alone will be profitable and not even self-supporting, but believes that in the future a profitable business may be built up if both are combined. It does not desire the authority to operate one service without the other.

A showing of public necessity can not be predicated upon an applicant's belief of what business he may develop in the way of additional traffic between two or more given points. The record shows that the traffic expected to be secured had little or no existence at the time of filing the application, and if present transportation facilities are adequate there is no public necessity for the establishment of additional service designed to care for business which may or may not materialize in the future.

Moreover, this Commission has repeatedly held on applications for certificates of public necessity and convenience, particularly where an additional service is proposed which will virtually parallel existing carriers, that a clear and affirmative showing must be made that the existing transportation facilities are inadequate or unsatisfactory. There is no evidence in this case that the existing transportation facilities are in any way inadequate, even though it may appear that the convenience of a limited few may be

served at one or two intermediate points.

We have already indicated herein that the public necessity is determined by this Commission upon the demand and needs of the public at large and not on the advantage that may come to a particular shipper or consignee. We are therefore clearly of the opinion that the application of Motor Transit Company should be denied.

J. C. Best operates an automobile passenger stage line between Santa Ana and Riverside, by way of the Santa Ana canyon, serving Olive, Orange, Corona and other intermediate points, and the granting of his application would permit an extension of his operations to Colton and San Bernardino.

This applicant called his son, R. C. Best, a driver on the line, and two others as witnesses in support of the application.

The evidence shows that this proposed service is based wholly upon the plan and desire of the applicant to obviate some inconvenience and a short lay-over at Riverside by passengers transferring to and from the Pacific Electric railway.

Applicant testified to the effect that there have been a daily average of about four or five requests at Santa Ana for transportation to San Bernardino, but there is nothing at all in the record to indicate whether there have been any inquiries or requests at San Bernardino or Colton for stage service to Santa Ana. The two witnesses for applicant, who reside at Santa Ana and make but occasional visits to Colton or San Bernardino, complained only of the inconvenience of a ten or fifteen minute lay-over at Riverside.

It appears that during three months in the summer-

time only, some San Bernardino people visit the beaches and some Santa Ana people go to the mountains, all of whom might avail themselves of this proposed stage service, but there is no evidence in the record to disclose the volume of this travel or that the Pacific Electric Railway, protestant, has ever failed in any way to meet the demands of this particular traffic.

Two petitions were offered in evidence by this applicant, signed by many citizens of Santa Ana and Colton, requesting in general terms the authorization of this proposed extension, but it appears that a very limited number of these signers ever visit San Bernardino or Colton and that most of them signed at the mere request of applicant, and none of them appeared at the hearing.

Petitions and similar documents favoring the granting of an application are not the best evidence, and as a rule have little or no evidentiary value, as the signers are usually not present for cross-examination, and while such documents are received by the Commission, they are accorded such weight as is merited by the facts and circumstances of the particular case under consideration.

A study and comparison of the time schedule of the Pacific Electric Railway, which makes hourly trips between San Bernardino and Riverside, with the schedule of this applicant, J. C. Best, which only makes two round trips daily and three on Saturdays and Sundays, between Riverside and Santa Ana, convinces us that it will be a very easy and simple matter for applicant to adjust his schedule to that of the Pacific Electric Railway and thereby eliminate any lay-over by making direct connections therewith.

This applicant, in seeking an extension of his service, which parallels the Pacific Electric Railway, has

also offered no evidence whatever to show that this protestant's service is inadequate or that the public necessity requires such additional facilities, and we are of the opinion, therefore, that his application should be denied.

O R D E R

Public hearings having been held in the above entitled applications, which were consolidated for the purpose of receiving evidence, and both matters having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that the application of the Motor Transit Company be and the same is hereby denied.

IT IS HEREBY ORDERED that the application of J. C. Best be and the same is hereby denied.

Dated at San Francisco, California, this 14th day of April, 1922.

H. B. Brundage

Dwight Martin

J. F. Brundage

Commissioners.