

ORIGINAL

Decision No. 4677

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of
 RED STAR STAGE LINE for an order
 declaring that public convenience and
 necessity require the operation by it
 of an automobile stage service between
 San Mateo and Menlo Park, and of RED
 STAR STAGE LINE TRANSPORTATION COMPANY
 for an order authorizing the issue of
 capital stock.)
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) Application No. 3122.
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- Wiley F. Crist, for Red Star Stage Line.
- J. E. McCurdy for Peninsula Rapid Transit Company, protestant.
- Bishop and Bahler, by E. M. Wade, for California Stages Company, protestant.
- O. M. Spangler for Union Line, protestant.
- E. M. Wade for Otto Rinckert and Floyd Hanchett, protestants.

THELEN and GORDON, Commissioners.

O P I N I O N .

Red Star Stage Line asks that the Railroad Commission make its order declaring that public convenience and necessity require the operation by Petitioner of an automobile stage service between San Mateo and Menlo Park.

In a supplemental petition herein, Red Star Stage Line Transportation Company asks authority to issue capital stock in exchange for the property and business of Neil Forrest, operating under the name of Red Star Stage Line, and also the issue of additional capital stock to secure funds for the purchase of additional equipment and for other purposes hereinafter referred to.

Public hearings were held in San Francisco on September 7th and 21st, 1917.

Since December, 1914, Neil Forrest, doing business under the name of Red Star Stage Line, has operated an automobile stage line from San Francisco down the San Mateo Peninsula to San Mateo and thence westerly to Half Moon Bay and Pescadero, and return.

Petitioner now desires permission to continue its operations from San Mateo south over the State Highway to Menlo Park and return. If this application is granted, Petitioner will operate an automobile service from San Francisco to Menlo Park in competition with the present established operators and will continue its service to and from Half Moon Bay and Pescadero. Petitioner desires primarily to serve Camp Fremont at Menlo Park and does not desire to handle local traffic unless passengers insist on being carried.

Petitioner proposes to operate seven and twelve passenger automobiles on the San Francisco-Menlo Park service, two of these automobiles being Jeffreys and one an Oldsmobile.

Petitioner proposes to operate an hourly schedule, leaving its terminus at 920 $\frac{1}{2}$ Market Street, San Francisco, every hour from 8 A.M. to 10 P.M., the last stage leaving at 10:15 P.M., and leaving Menlo Park at 8:30 A.M., and every hour thereafter until 11:30 P.M.

Petitioner proposes to charge a fare of 60 cents between San Francisco and Menlo Park, this fare being in excess of the fare charged by the existing operators.

Petitioner has secured no permit from the County of San Mateo or from the cities of San Mateo and Redwood City, as required by Section 3 of the Act of May 10, 1917, providing for the supervision and regulation of transportation companies.

Protests against the granting of the petition herein were filed by Peninsula Rapid Transit Company, California Stages Company, The Union Line and a number of smaller operators. Protestants urge that they are rendering adequate service at reasonable rates and are handling such business as is offered and contend that competitors should not now be permitted to divide with them the business which they have developed.

For a statement of the leading provisions of the Act of May 10, 1917, of the principles to be applied in applications of this character and of the automobile stage situation between San Francisco and Palo Alto, reference is hereby made to the decision this day rendered in Application No. 3159, Santa Clara Valley Auto Line.

Under the provisions of Section 5 of the Act of May 10, 1917, there is cast upon the petitioner in applications of this character the burden of showing affirmatively that public convenience and necessity require the operation by him of the contemplated automobile service.

Petitioner herein presented the testimony of only two witnesses, Mr. W. R. Egan, one of its employes, and Mr. Neil Forrest, the owner of its property and business. Neither of these witnesses gave any direct testimony with reference to conditions existing between San Mateo and Menlo Park or showing that public convenience and necessity require the operation of the service as proposed by ~~the~~ Petitioner. Reference was made to the establishment of Camp Fremont at Menlo/^{Park} but no testimony was presented to show that the transportation needs of Camp Fremont are not being adequately met by the existing operators.

Mr. Forrest testified that he has passed ^{only} once between San Mateo and Palo Alto within the last sixty days and that he has no personal knowledge of traffic conditions or requirements in the territory between San Mateo and Palo Alto.

This testimony is not sufficient to show that public convenience and necessity require the operation by Petitioner of the proposed service between San Mateo and Menlo Park.

The supplemental petition filed herein alleges, in part, that Red Star Stage Line Transportation Company was incorporated under the laws of California on August 17, 1917; that its authorized capital stock is \$50,000 par value, divided into 5,000 shares of the par value of \$10 per share; that one share of capital stock has been issued to each of three directors of the corporation; that Mr. Neil Forrest, who has been operating an automobile stage service between San Francisco, San Mateo, Half Moon Bay and Pescadero, under the name of Red Star Stage Line, has offered to sell to the new corporation the entire property and business of Red Star Stage Line in exchange for the issue to him by the new corporation of 2500 shares of its capital stock, having the par value of \$25,000, and that the new corporation desires to accept the offer, to make the purchase and to issue said amount of capital stock accordingly; and that the new corporation desires to issue additional capital stock at 90 per cent of its par value for the purpose of purchasing additional equipment and for other purposes hereinafter referred to.

Mr. Forrest testified that the property which he desires to convey to Red Star Stage Line Transportation Company has the following values:

Franchise	\$15,000
Four Jeffrey automobiles	8,000
One Oldsmobile	3,300
Extra tires and equipment	1,000
Machinery and garage at 3525 Mission St. San Fran- cisco	1,000
Office furniture	500
Accident insurance policies	

Section 6 of the Act of May 10, 1917 referring to the issue of capital stock, bonds and notes by transportation companies, provides that, except as otherwise provided, such issues shall be governed by Section 52 of the Public Utilities Act. The latter section provides, in part, that the Railroad Commission shall have no power to authorize the capitalization of any franchise or permit in excess of the amount actually paid to the State or to a political subdivision thereof, as a consideration for the grant of the franchise or permit. Mr. Forrest has received no written franchise or permit from any public authority and has made no payment for any franchise or permit. The Railroad Commission, accordingly, does not have power to authorize the issue of capital stock herein by reason of any assumed franchise or permit value. At the hearing, Petitioner urged that its business as a "going concern" was worth \$15,000. in excess of the value of its automobiles and other tangible property. Petitioner presented testimony to show that its profits had been small until recently, although it has purchased most of its automobiles from the proceeds of its business. Petitioner has made no allowance for depreciation of its automobiles or other equipment. There is nothing in the testimony to show that this Commission can reasonably authorize the issue of capital stock in excess of the present fair value of Petitioner's automobiles and other equipment.

The testimony shows that the values assigned by Petitioner to its automobiles are their cost new, although the machines have been in service from one to three years. Capital stock can be authorized up to the present fair value of these automobiles, and not on the basis of their original cost.

The supplemental petition herein alleges that the new corporation desires to issue additional capital stock and to use the proceeds thereof for the following purposes:

1. To purchase, lease or rent additional automobiles or automobile ~~xx~~ trucks.

2. To pay for the operating and overhead expenses.

It is, of course, obvious that capital stock can not be issued to pay for operating expenses.

We have no objection to the transfer to the new corporation of the existing property and business, provided that such transfer is made in exchange for the issue of only a reasonable amount of capital stock and we desire to be helpful in enabling Petitioner to secure funds for such additional equipment as Petitioner may need in connection with its present service. The plan of finance, however, presented in the supplemental petition herein, violates a number of the provisions of the statutes of this State, as well as being based on inflated values which can not be allowed by the Commission.

While we shall recommend that the supplemental petition herein be denied, this action will be without prejudice to the renewal of the petition when the parties shall hereafter present an acceptable plan of finance.

We submit the following form of order:

ORDER.

Neil Forrest, doing business under the name of Red Star Stage Line, having filed herein a petition asking that the Railroad Commission make its order declaring that public convenience and necessity require the operation by ~~xx~~ Petitioner of an automobile stage service between San Mateo and Menlo Park and Red Star Stage Line Transportation Company having filed herein a supplemental petition asking authority to issue capital stock for the purposes specified in the opinion which precedes this order, and public hearings having been held and the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION HEREBY FINDS AS A FACT that public convenience and necessity/^{do not} require the operation by Neil Forrest, doing business under the name of Red Star Stage Line, of an automobile stage service between San Mateo and Menlo Park, as requested in the petition herein.

Basing its order on the foregoing finding of fact and on the other findings which are contained in the opinion which precedes this order,

IT IS HEREBY ORDERED as follows:

1. The petition of Neil Forrest, doing business under the name of Red Star Stage Line, that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of an automobile stage service between San Mateo and Menlo Park is hereby denied.

2. The petition of Red Star Stage Line Transportation Company for an order authorizing the issue of capital stock for the purposes specified in the opinion which precedes this order is hereby denied, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of September, 1917.

Max Thelen
W. H. Vandenberg
Alex Gordon
Edwin O. Johnson
Fran R. Robin

Commissioners.