

ORIGINAL

Decision No. 7271

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application	)	
of O. L. Swett for Certificate of	)	
Public Convenience and Necessity	)	
to operate passonger auto stage	)	APPLICATION No.5189
service between Oakland-Stockton	)	
and intermediate points and Oakland-	)	
Fresno and intermediate points.	)	

Appearances:

- E. M. Otis, for applicant.
- W. A. Latta, for Star Auto Stage Association, protestant;
- Harry A. Encoll, for Geo. S. Held, for C.M. Simonds, protestants.
- W. E. Simpson, for Fresno-Firebaugh Stage Co.
- Frank B. Austin, for Southern Pacific Co., protestant.
- A. L. Whittle, for San Francisco-Oakland Terminal Railways.

O P I N I O N

By the Commission:

Applicant herein, O. L. Swett, petitions the Railroad Commission for an order declaring that public convenience and necessity requires the operation by applicant of an automobile stage, as a common carrier, for the transportation of passengers and baggage between Oakland-Stockton and the intermediate points and between Oakland-Fresno and intermediate points. A public hearing was held before Examiner Geary at San Francisco March 3, 1920, and the application is now ready for decision.

A schedule marked Exhibit A, is attached to the application showing the fares proposed between all points covered by the route to be operated. At the hearing the application was amended changing the one way fare of 25 cents between Oakland and either San Leandro or Hayward to 35 cents between Oakland and San Leandro, and 45 cents between Oakland and Hayward. The fares are not on a uniform basis but are all in excess of three cents per mile.

The principal witness for applicant testified as to having made some slight investigation regarding the necessity for the proposed service, but he had not been over the entire route during the past six months and, therefore, was without complete knowledge of the existing transportation conditions. Other witnesses on behalf of applicant who reside at intermediate points testified that on certain occasions they had been inconvenienced and delayed by the overcrowding of the stages of established companies and were of the opinion that the public would be better served if another line were placed in operation. However, there was no positive testimony to indicate that the facilities offered at the present time by the different rail and automobile common carriers was not sufficient under normal flow of traffic to meet all reasonable demands.

The granting of the application was opposed by the Southern Pacific Company, San Francisco-Oakland Terminal Railways, Star Auto Stage Association, Firebaugh-Fresno Stage Line, and Held and Simonds.

Testimony of protestants' witnesses was along general lines, all to the effect that there is ample regular service to meet every public demand, and that the regular service can be augmented upon short notice whenever unusually heavy traffic developed.

There is no need to here analyze all of the testimony or give complete details. It is sufficient to state that between Oakland and Stockton there are three standard railroads, Southern Pacific, Atchison, Topeka & Santa Fe and Western Pacific, between Oakland and Hayward the San Francisco-Oakland Terminal Railways gives a frequent interurban electric service and between Oakland and Stockton the Star Auto Stage Association operates a daily service of 13 schedules in each direction. These common carriers by the testimony of their witnesses conclusively proved that they are meeting the demands of the public.

Traffic checks taken on the railroads, as well as via automobile lines indicated that the seating capacity of the equipment in the service is never completely employed. The testimony clearly shows that there is no public convenience and necessity for the entrance of another automobile passenger common carrier between Oakland and Stockton.

The proposed through stage line between Oakland and Fresno follows the same route as the Star Auto Stage Association to Tracy, from which point the route is on the west side of the San Joaquin Valley to Fresno passing through Los Banos and Firebaugh. The Southern Pacific Company operates trains to all points proposed to be served by applicant. In addition there is a local auto service between Tracy and Los Banos and between Firebaugh and Fresno, leaving only the territory between Los Banos and Firebaugh not now covered by stage lines under certificates from this Commission. As to the direct service between Oakland and Fresno, it was shown that these points are now served by the passenger trains of Southern Pacific Company and Atchison, Topoka & Santa Fe and that the Western Auto Stage automobiles cover the same terminals and serve intermediate territory on the east side of the San Joaquin Valley between Tracy and Fresno. No convincing showing was made that a through route via the West side of the San Joaquin Valley is a public necessity between Oakland and Fresno or that public necessity requires an additional line between Oakland and Stockton.

The Commission has frequently stated that the question of public convenience and necessity is the first consideration in applications of this nature rather than the desire of an operator to enter the transportation field as a common carrier. In this proceeding it is apparent that the existing lines are sufficient; that they have the equipment to render a satisfactory service and that such service is now being given.

After a careful consideration of all the evidence in this proceeding, we find as a fact that public convenience and necessity does not require the operation of an additional automobile stage line between Oakland and Stockton or between Oakland and Fresno, as proposed by applicant herein. The application should be denied.

O R D E R

O. L. Swett having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile passenger stage service between Oakland and Stockton ~~and between~~ Oakland and Fresno, a public hearing having been held and the matter having been duly submitted and the Commission being fully advised, the Railroad Commission hereby declares that public convenience and necessity do not require the establishment of an automobile stage as a common carrier of passengers between Oakland and Stockton and between Oakland and Fresno by the petitioner herein.

IT IS HEREBY ORDERED, and the same is hereby denied.

Dated at San Francisco, California, this 15<sup>th</sup> day of March, 1920.

Edwin C. Egerton  
W. D. Leonard  
H. A. Bourdige  
COMMISSIONERS.