

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of H. A. Folk and Earl Renn for )  
certificate of public convenience )  
and necessity to operate automo- )  
bile passenger service between the )  
towns of San Jose, Santa Clara, )  
Cupertino and Saratoga, Santa Clara )  
County, California. )

APPLICATION NO. 5087.

BY THE COMMISSION:

Harry E. Smith, for the Applicants.  
Wm. F. James, for the Peninsular Railway and  
San Jose Railroad, Protestants.

OPINION ON PETITION FOR REHEARING.

H. A. Folk and Earl Renn, partners in business, filed a petition asking for a rehearing of Decision No. 6990, issued December 26, 1919 in Application No. 5087. This decision granted applicants a certificate of public convenience and necessity to operate an automobile stage line as a common carrier of passengers between San Jose and Cupertino, except that no local passengers could be handled between Santa Clara and San Jose; the decision denied authority to operate passenger stages between Cupertino and Saratoga. The applicants, however, have failed to establish the San Jose-Cupertino service as authorized.

The Peninsular Railway Company and the San Jose Railroads appeared in opposition at the original hearing and again protested the establishment of the competing automobile line at the proceeding on the application for rehearing.

In the original application, filed October 29, 1919, authority was sought to operate through stages between San Jose and Saratoga, serving all local points.

Petitioners herein allege, in effect, that the Commission erred in its decision in refusing to authorize the service between Cupertino and Saratoga, basing their contentions on the fact that the proposed route is not now completely served by the Peninsular Railway and that people residing along the Saratoga-Mountain View Highway between Cupertino and Saratoga are required to walk long distances in order to reach the cars of the Peninsular Railway.

Attached to the application for a rehearing was a petition signed by a number of people who desired the stage line established and who guaranteed patronage during the first six months of service in amounts varying from \$5.00 to \$15.00.

A number of witnesses appeared at the rehearing held in San Jose on March 15, 1920, many being the same as testified at the original hearing held on November 26, 1919. The testimony of all of the witnesses was, in effect, the same as that introduced at the original hearing, and while indicating that the automobile line would prove a convenience in certain districts there was no sufficient showing that public necessity required the establishment of the line in competition with the service rendered by the Peninsular Railway Company.

The annual reports for a number of years past show that the Peninsular Railway Company has failed to earn fixed charges and interest, to say nothing of a return on investment. Our original opinion set forth that if the Peninsular Railway's revenues were further reduced the carrier would be unable to render an adequate service and might be compelled to discontinue some of its schedules entirely. In reaching a conclusion involving situations of this kind the Commission must look both ways and it

appears from the testimony that a curtailment of the railway service would injure a greater number of people than would be benefited if this automobile common carrier service were established. This would apply with particular force to the traffic moving between Saratoga and San Jose.

In rendering its decision December 26, 1919, the Railroad Commission gave careful and detailed consideration to all of the facts involved, which facts were not changed by any testimony presented at the rehearing herein.

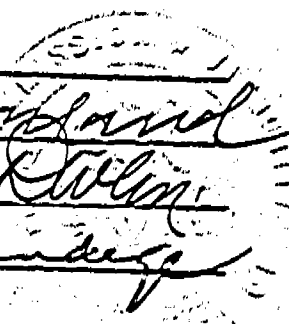
We find no good reasons advanced for granting this application on rehearing and conclude that the same should be denied.

ORDER ON PETITION FOR REHEARING

E. A. Folk and Earl Renn, having filed a petition for rehearing in the above entitled proceeding, careful consideration having been given to said petition, and no good reason appearing why said petition should be granted,

IT IS HEREBY ORDERED that said petition for rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this 26<sup>th</sup> day of April, 1920.

  
J. D. Lombard  
Stanley K. Wilson  
H. B. Brundage  
Commissioners.