

ORIGINAL

Decision No. 9540.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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 In the Matter of the Application of F.)
 HANCHETT and N. LOCICERO, individual)
 operators of auto stages between San)
 Francisco and San Jose and intermediate)
 points under the fictitious name and) Application No. 6938.
 style of PACIFIC AUTO STAGE COMPANY,)
 for an order under Rule II, General)
 Order 51 to establish certain fares.)

Harry A. Encell for Applicants.

J. E. McCurdy for Peninsular Rapid
Transit Company, Protestants.

BY THE COMMISSION:

O P I N I O N

F. Hanchett and N. Locicero, individual operators under the fictitious name and style of Pacific Auto Stage Company, operating passenger stage lines between San Francisco and San Jose and intermediate points have petitioned the Railroad Commission by an application made under the provisions of Rule II of the Commission's General Order No. 51, for authority to adjust their rate schedules in accordance with a schedule of rates shown as Exhibit "D" as attached to and forming a part of the application in this proceeding. The schedule proposed is alleged to be the same as that of the Peninsular Rapid Transit Company, a corporation, operating automobile passenger service between San Francisco and San Jose and intermediate points over the same route as that of the applicants herein.

A public hearing on this application was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

The operative rights of F. Hanchett and N. Locicero, applicants in this proceeding, were established by virtue of the fact that they were each operating prior to May 1, 1917, the date referred to in the auto stage and motor transportation law, Chapter 213, of the Statutes of 1917, as that upon which operators then operating in good faith were not required to secure certificates from the Railroad Commission nor local permits.

In the tariffs filed by the applicants, rates were established between San Francisco, Burlingame, San Mateo, Belmont, Redwood City, Menlo Park, Palo Alto, Mayfield, Mt. View, Sunnyvale, Santa Clara, and San Jose.

Exhibit "A" attached to and made a part of the application in this proceeding is a statement of operating revenues and expenses covering a period, September 30 to December 31, 1920, inclusive, and shows that the operating expenses and fixed charges amounted to \$37,130.57 and that the operating revenue was \$30,425.15, making an alleged deficit of \$6,705.42 for the three months period. However, there was set up in the operating expenses an amount for interest on investment of \$1,338.75 which is not properly chargeable to operating expenses. A depreciation of 40% on equipment is also shown in Exhibit "A" which is excessive, but eliminating these items entirely, the exhibits show that these operators are not earning a fair return on \$55,350.00, the estimated value of their property used and useful in the public service.

In Exhibit "D", referred to above, which was a statement of proposed rates and fares, was shown proposed fares

between San Francisco and San Mateo and Burlingame, as twenty-five cents. In Article 6, page 3 of the application applicants stated they desired to charge between San Francisco, and Burlingame and San Mateo - forty cents.

The applicants request permission to adopt the rates of their competitor, Peninsular Rapid Transit Company, with the exception that instead of the twenty-five cent rate now applying over the Peninsular Rapid Transit Company's line between San Francisco, and Burlingame and San Mateo, the applicants desire to charge forty cents.

Mr. F. Hanchett, one of the applicants testified insubstance that the forty cent rate was desired to discourage as much as possible the use of their line by the public on short hauls, and that such rate should be permitted in that their competitor, the Peninsular Rapid Transit Company, was equipped to satisfactorily handle the short haul business between San Francisco and Burlingame and San Mateo. The Market Street Railway also operates between these points and is also equipped to handle more traffic than at present offers and has ample facilities to increase service should the public demand. Witness claims to have handled all this traffic that has offered for movement and that his instructions to his ticket agents and drivers are that such traffic must be handled when offered. Evidence is before the Commission in this proceeding as to complaints which have been made, supported by affidavits, that intending passengers offering at San Francisco for San Mateo or Burlingame have been refused passage and have been directed to the stages of the Peninsular Rapid Transit Company. Inquiry by a Commission inspector was met with the same response and passage was refused to either San Mateo or Burlingame. It should be obvious that the Com-

mission will not permit a continuation of the practice heretofore resorted to by the applicants herein. They have assumed the obligations of a common carrier and have held themselves out to the public as to the service they propose to perform by the filing of their tariffs and time schedules as required by the statutory law and the regulations of the Commission. Having done so, they will be required to accept the obligation thereby voluntarily assumed and give service to any and all who apply for same and to any and all points specified in their tariffs and time schedules. The Commission will not authorize any discrimination in such regard and the unloading of such short haul, and possibly unprofitable, business on a competing line, either by railroad, electric railway or stage, or by refusal to carry passengers offering. The proposed increase in fare between San Francisco and Burlingame-San Mateo from twenty-five cents to forty cents would readily accomplish the result which applicants are seeking, as with the fare of the competing stage line and the electric railway at the lower rate, intending passengers would naturally select the method of transportation offering the lower fare. The rates of the applicant should be on a parity with their competitor, the Peninsular Rapid Transit Company, and not only to certain selected points desired by applicants but to all points, and the service advertised by tariffs and time schedules as filed with the Railroad Commission will and must hereafter be available to all prospective passengers without discrimination as to whether the intending passenger desires transportation between San Francisco and San Jose or to any intermediate point on the route. There will be no discrimination sanctioned by this Commission as applied for in the proposed rate schedule as affecting business between San Francisco and Burlingame-San

Mateo, and, if further instances of complaint are brought to the attention of the Commission regarding applicants refusing to accept proffered patronage between these points, the matter is one that will receive the attention of the Commission by the institution of a proceeding on its own initiative to investigate any future alleged discrimination.

From the evidence in this proceeding it appears that applicants are in need of relief, but as we are of the opinion that where two lines are operating over the same route and under like circumstances and conditions, that the rates should be uniform, we therefore will authorize applicants herein to establish the same rates between points shown on tariffs on file with this Commission as are provided in the tariff of the Peninsular Rapid Transit Company and as on file with the Commission.

O R D E R.

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED, That F. Hanchett and N. Locicero, individual operators under the fictitious name and style of Pacific Auto Stage Company, be and they hereby are

authorized to publish on five day's notice the schedule of rates covering one-way fares as set forth in Exhibit "D" attached to and forming a part of the application in this proceeding.

Dated at San Francisco, California, this 23rd day of September, 1921.

H. D. Lowland

Waring M. Tice

Charles H. ...

Commissioners.