

Decision No. 9750.

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of  
HARRY GAETA for certificate of public  
convenience and necessity to operate  
a motor stage service between Oakland  
and Livermore and intermediate points.  
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APPLICATION NO. 6111.

Wm. B. Smith for Applicant.

L. Richardson for Southern Pacific  
Company, Protestant.

Nutter, Hancock and Rutherford, by  
John Hancock, for Star Auto Stage  
Company, Protestant.

BY THE COMMISSION:

O P I N I O N

Harry Gaeta has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers between Oakland and Livermore and intermediate points.

A public hearing on this application was conducted by Examiner Handford at Livermore, at which time the application was duly submitted and it is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked exhibit "A" attached to the application in this proceeding and to operate five round trips daily, serving the intermediate communities at San Lorenzo, Mt. Eden, Alvarado, Decoto, Centerville, Miles, Farwell, Brightside, Sunol, and

Pleasanton. The equipment proposed to be used consists of one Studebaker Automobile of fifteen passenger capacity and, if the applicant is granted and the traffic requirements justify, a nineteen passenger Cadillac automobile will be placed in service.

Applicant relies on justification for the granting of the desired certificate upon the alleged fact that there are no transportation facilities between Milos and Livermore except the Southern Pacific Company and the Northern Pacific Railroad.

Witnesses for applicant testified that it was desirable for early morning service between Pleasanton and Oakland, although there was no showing that a greater number than three or four passengers would avail themselves of such service, and such prospective passengers reside at Livermore. The applicant in his own behalf testified that he was unable to estimate whether or not the proposed line would be a paying venture.

The granting of the desired certificate is protected by the Star Auto Stage Company and by the Southern Pacific Company. Witness testifying for protectant, Star Auto Stage Company, stated that at one time such company operated its stages on the Stockton route through Pleasanton for a period of approximately eight months and that during such period not over six passengers per day on all schedules were handled in and out of Pleasanton. In the endeavor to provide an early stage service from Livermore to Oakland, said protectant put on a run in March, 1930, leaving Livermore at 7:00 A. M. and running via the Dublin Canyon route to Oakland arriving at 8:30 A. M.

The run was conducted at a loss of approximately \$250.00 per month and it was necessary to discontinue the profitable service. A voluminous exhibit was filed by this protectant showing in minute detail the traffic conditions as existing

during the month of December, 1930, the exhibit illustrating results of each days operation and also showing the recapitulation covering the business of the entire month. The following abstract from the monthly statement indicates the traffic conditions as regards the territory now served by this protestant and which is also sought to be served by applicant:

Month of December, 1930.

Number of Schedules Operated . . . . .	922
Number of Cars Operated . . . . .	1023
Seating Capacity of Cars . . . . .	16282

EAST BOUND PASSENGERS HANDLED

Oakland-Haywards to points east of Livermore . . . . .	3092
Oakland to Livermore . . . . .	703
Oakland to local points intermediate to Livermore . . . . .	255
Local passengers between points intermediate between Oakland and Livermore . . . . .	<u>141</u>

Total, East-bound passengers . . . . . 4171

WEST BOUND PASSENGERS HANDLED

From points east of Livermore to Oakland . . . . .	3244
From Livermore to Oakland . . . . .	613
From points east of Livermore to local points between Livermore and Oakland . . . . .	40
From Livermore to intermediate points between Livermore and Oakland . . . . .	29
Local passengers between points intermediate between Livermore and Oakland . . . . .	<u>142</u>

Total, West-bound Passengers . . . . . 4688

Total, East and West-bound Passengers . . . . . 8859

Total, Seats Available . . . . . 16282

Unoccupied seats . . . . . 7443

It is apparent from the above tabulation that approximately 46% of the seating capacity of the protestant, Star Auto Stage Company, was not used by the public.

In view of all the evidence in this proceeding and the failure of the applicant to make a satisfactory showing that the public desire the proposed service, the Commission cannot

authorize the granting of the desired certificate. The appli-152

ant operated other stage lines and evidently has had in mind the acquisition of more territory, but as has frequently been stated by the Commission in its decisions, the desire of an applicant to enter the business in any particular locality or on any particular route is not controlling in the matter of public convenience and necessity and an affirmative showing must be made. The application, in the absence of such evidentiary showing, must be denied.

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,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by Harry Gaeta of an automobile stage line as a common carrier of passengers between Oakland and Livermore and intermediate points, and

IT IS HEREBY ORDERED that this application be and the same hereby is denied.

Dated at San Francisco, California, this 10<sup>th</sup> day of November, 1921.

H. P. Boudier

David M. Martin

Robert J. Towce

J. J. Smith

Commissioners.