

Decision No. 9971

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
THE DE LUXE STAGE COMPANY for certificate
of public convenience and necessity to
operate through passenger service between
Santa Cruz and San Francisco.

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: Application No. 7131
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Ralph H. Smith, Erwin C. Easton, Henry G.
W. Dinkelspiel for applicant.
H. C. Booth, E. Schillingsburg, J. C.
Lyons for Southern Pacific Company, Protestant
J. E. McCurdy for Auto Transit Company, Protestant
H. A. Encell for C. M. Blabon and Hanchett and
Lociero, Protestants.

BY THE COMMISSION,

O P I N I O N

In the above entitled application E. E. Starcher, doing
business under the fictitious name and style of De Luxe Stage Com-
pany has made application to the Railroad Commission in which he
petitions for a certificate of public convenience and necessity
authorizing the operation of an automobile stage line as a com-
mon carrier of passengers between San Francisco and Santa Cruz. Ap-
plicant states in his petition that he proposes to operate only a
through service.

Hearings were held before Examiner Satterwhite at Santa
Cruz on September 22nd, 1921, and at San Francisco on October 13th,
October 31st, and November 21st, 1921, at which time the matter was
submitted and is now ready for decision.

Applicant has been engaged for a number of years in the sightseeing and taxicab business in Santa Cruz and testified that the present application was filed primarily for the purpose of attracting tourist travel from San Francisco to Santa Cruz. To secure such tourist business he proposes to advertise this service as well as personally solicit the tourists at the various San Francisco hotels by describing the scenic beauties enjoyed by automobile trip through the Santa Clara Valley, the Santa Cruz Mountains and Big Trees at Felton. It is his belief that through such personal solicitation and advertising considerable tourist traffic could be developed between San Francisco and Santa Cruz, which would not only necessitate the operation of the service which he proposes, but would be of great value to the business community of Santa Cruz.

Applicant proposes to operate three round trips per day leaving San Francisco at 8 A. M., 2:30 P. M. and 7:30 P. M. and to use in such operation four 7-passenger National automobiles charging a rate of \$3.00 for the one way trip San Francisco to Santa Cruz.

Testifying in his own behalf applicant stated that he had made no investigation as to the traffic needs at the present time between San Francisco and Santa Cruz, but that it was his belief that the present stage service rendered by the Auto Transit Company was inadequate and unsafe and did not tend to attract tourist travel. A number of other witnesses, residents of Santa Cruz, ^{were} also called by applicant, but none of whom, however, could state of their own knowledge whether the existing transportation facilities of the Auto Transit Company and Southern Pacific Company were inadequate, and testified that they believed any additional transportation facilities which would be secured would be a benefit to the City of Santa Cruz.

Applicant also introduced testimony as to the alleged unsatisfactory service rendered by the Auto Transit Company, an automobile passenger stage line at present operating between San Francisco

and Santa Cruz and intermediate points. This testimony was directed mainly to the equipment operated by the Auto Transit Company to show that their equipment was antiquated and unsafe; that on various occasions the brakes on the cars had refused to work, also that the drivers of the Auto Transit Company were not experienced and that traffic officers along the route over which they operate had occasion not only to warn them with respect to reckless driving, but upon one occasion was obliged to arrest one driver for violation of traffic ordinances. It was not shown, however, that any of these witnesses possessed sufficient experience in automobile mechanics or a sufficient personal knowledge of the equipment operated by the Auto Transit Company to establish the unsafe condition of such equipment.

The Auto Transit Company, a protestant in this proceeding, presented testimony through its chief mechanic to the effect that its equipment was not only in first class condition when operated, but that it was continuously being overhauled and inspected and that with the exception of minor mechanical difficulties, which every operator of an automobile must experience, no serious break downs had ever occurred nor had its equipment at any time failed to pass all necessary tests particularly as to the braking requirements of the Railroad Commission. Rule "5" of the operating rules and regulations established by this Commission provide that every vehicle shall be equipped with satisfactory brakes and such brakes shall at all times be maintained in good condition and with a braking power sufficient to lock the rear wheels of said vehicle when brakes are fully applied at a speed of ten miles per hour.

There was also considerable testimony submitted that the Auto Transit Company had on various occasions been obliged to refuse transportation to passengers desiring to leave Santa Cruz due to the fact that their available equipment was loaded to its

capacity and that they were unable to accept additional passengers for transportation. Mr. George Seidelman, President of the Auto Transit Company, testifying in behalf of this protestant, stated that to maintain the present schedule of the Auto Transit Company it required the operation of two 11 or 14-passenger automobiles; that in addition thereto his company had two machines in reserve and could lease within a very short period three additional machines at any time when traffic conditions necessitated such action. It appears from the testimony that the traffic conditions to and from Santa Cruz are fluctuating; that there is at times heavy passenger traffic which severely taxes available equipment and particularly during the time of various conventions at Santa Cruz. An exhibit, however, submitted by protestant Auto Transit Company, showed the traffic movement upon its line between San Francisco and Santa Cruz for a period September 1st to October 25th, 1921, as follows:

During the month of September 1st to 30th inclusive, this line operated 1,932 passenger seats during which period it carried 992 passengers and 940 empty seats or approximately 51 percent capacity. During the period October 1st to 25th inclusive, protestant operated 1,576 seats, carried 1,090 passengers and 486 empty seats or approximately 69.8 percent of capacity.

A study of this exhibit as to traffic conditions between San Francisco and Santa Cruz further shows that during the period September 1st to October 25th, inclusive, this line at no time operated to its full capacity, the least number of empty seats occurred upon October 8th when there were two empty seats and the highest number on September 10th when there were fifty empty seats. Attention might be called to this latter date in that it was a day following a legal holiday and when traffic conditions would be particularly heavy in view of the fact that Santa Cruz is patronized largely as a week-end and holiday resort. The average of empty seats

carried by the Auto Transit Company for a 55-day period is in excess of 26 per day.

This exhibit would tend to show that the existing traffic conditions were not such as to over tax the stages of the Auto Transit Company particularly when it is borne in mind that this company heretofore operated six-round trips daily between San Francisco and Santa Cruz, but that due to falling off of traffic has been obliged to reduce its operating schedules to two round trips per day. In addition to which the Southern Pacific trains between San Francisco and Santa Cruz are far from over crowded. The Southern Pacific Company is willing at all times, when conventions are held or upon other occasions when traffic conditions are heavy, to supply additional coaches or in fact extra trains if required.

A witness for Southern Pacific Company, also a protestant, testified that his company was obliged to take off one of their passenger trains between San Francisco and Santa Cruz due to the light traffic movement between such points and that such train was not earning operating costs. With reference to securing tourist travel the Southern Pacific Company showed that during the summer months it had expended in excess of \$4,437.00 in advertising Santa Cruz, the Big Trees and vicinity in addition to which it continuously maintained posters in its stations and ferry boats advertising Santa Cruz and vicinity and that all passengers traveling from eastern points were entitled, should they so desire, to be routed via Santa Cruz with stop over privileges without extra charge.

The Chairman of the Board of Supervisors of Santa Cruz County also testified to the existing traffic conditions stating that it was the belief of each Supervisor of Santa Cruz County that the ground was fully covered as regards soliciting tourists to visit Santa Cruz; that the existing rail and auto service was

adequate to meet all needs, and that in addition thereto the Board of Supervisors of the County of Santa Cruz was against the establishment of additional stage lines for the reason that the new highway recently opened known as "Los Gatos Highway" was over crowded at the present time and the establishment of additional stage lines over such highway would tend to endanger the lives of people using private machines traveling to and from Santa Cruz. A check of machines over a four-day period had shown 45,000 automobiles over the new highway. The highway in question is only fifteen feet wide on straight road and from sixteen to sixteen and one-half feet wide on curves, and due to such fact the establishment of an additional stage line over such road would be a detriment instead of a benefit to the City of Santa Cruz in that it would keep many privately operated machines away which would otherwise visit Santa Cruz over week-ends and holidays.

In addition to the through service at the present time by both the Auto Transit Company and the Southern Pacific Company, there is the additional service being rendered jointly by the Pacific Auto Stage Company, San Francisco to San Jose and C. M. Blabon, San Jose to Santa Cruz. A review of the evidence in this proceeding shows that this existing service by rail and auto stage is fully adequate to meet all traffic demands between the two points named. The securing of additional tourist travel in itself would not warrant the establishment of an additional stage line particularly in view of the fact that the Southern Pacific Company, through its agents and newspaper and poster advertising, goes a long way toward covering this field. The Auto Transit Company, in addition, through Peck Judah Company, a ticket agency, also advertises points of interest in Santa Cruz and vicinity. An official of the latter named company testified that in connection with the tickets,

his company has sold for transportation over the Auto Transit Company, he has never heard of one complaint against their service nor has he ever been unable to secure a seat for passengers to whom his company has sold tickets.

A large part of the evidence introduced by applicant was directed against the adequacy and safety of operation of the Auto Transit Company. A careful consideration of this evidence fails to show that the service of Auto Transit Company is either inadequate or unsafe. It is suggested that if, at any time, an authorized carrier is believed either to be operating unsafe equipment or is giving inadequate service or is not meeting traffic conditions, complaints may be filed, either formally or informally with this Commission and the Commission will immediately proceed to ascertain the truth of the matters complained of and will act in accordance therewith. No complaint of any character has been filed with this Commission as regards the service or safety of operation of the Auto Transit Company. In view of the fact that the Commission's Inspectors have on various occasions gone over the equipment of the Auto Transit Company and did not find any cause for complaint, together with a consideration of the evidence herein, we are of the opinion that the allegations of applicant as to unsafe equipment have not been established.

A showing of public necessity cannot be predicated upon an applicant's belief of what he may develop in the way of additional traffic between two given points. The fact remains that the traffic expected to be secured had no existence at the time of filing of the application and if present transportation facilities are adequate there is no public necessity for the establishment of additional service designed to care for a movement which may or may not materialize in the future. It is unquestionably true that should additional tourists be prevailed upon to include Santa Cruz in their itinerary it would be of material benefit to that city and should the City of

Santa Cruz itself, civic organizations or any of its individual citizens desire to spend all or a portion of their time in such work it would undoubtedly meet with considerable success, but until such traffic has been developed and it is shown that existing transportation facilities are inadequate to handle the same, we shall hold that no public necessity exists for the establishment of any additional service.

As applicant has failed to establish a public necessity for the service which he proposes, his application should be denied.

O R D E R

Hearings having been held, the above entitled proceeding having been 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 line as a common carrier of passengers between San Francisco and Santa Cruz, and

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is denied.

Dated at San Francisco, California, this 1st day of January, 1922.

H. A. ...
H. A. ...
Charles ...
W. J. ...
Commissioners