

CS

Decision No 28910

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
G. H. JENKINS for certificate of)
public convenience and necessity to)
operate a passenger service, as a) Application No. 20292.
common carrier, between the town of)
Antioch and the City of Pittsburg.)

E. Walter Lynch, for Applicant.

Hugh H. Donovan, for Ward Auto Stages, Buffo &
Coniglio, and Dennis Pettas.

BY THE COMMISSION:

O P I N I O N

In this matter G. H. Jenkins seeks a certificate of public convenience and necessity authorizing the operation of a passenger stage service between Antioch and Pittsburg and intermediate points, including the plants situated along the Bay front in the area designated as "Industrial Row." His application was protested by certain certificated carriers serving part or all of the territory, including Ward Auto Stages, Buffo & Coniglio and Dennis Pettas.

A public hearing was had before Examiner Austin at Pittsburg on February 25, 1936, when evidence was offered, the matter was submitted and it is now ready for decision.

The two principal towns to be served, namely, Pittsburg and Antioch, with populations of approximately 12,000 and 4,500, respectively, are situated some four miles apart. Between them, on Industrial Row, are located various large industrial plants, including those of Johns-Manville, Inc., California Redwood Manufacturers Company, Columbia Steel Corporation, Pioneer Rubber Mills and Great Western Electro Chemical Company. At these

plants are now employed about 2800 men, many of whom reside at Antioch. Applicant proposes to establish service for the accommodation of employees residing at both Antioch and Pittsburg, and also to serve shoppers and others desiring to travel between the two communities.

Because of the high fares and inconvenient schedules of the present operator, so applicant testified, many of the employees of these plants, particularly those residing at Antioch, use their own automobiles. Through the establishment of a service operating under reasonable fares and at convenient hours, applicant expects to attract many patrons now using their own cars. In fact, applicant has been advised by many plant employees, with whom he has discussed the matter, that they would leave their cars home if a suitable service were available. At Antioch, so he stated, is located the asparagus cannery of the California Packing Corporation, where some 150 women are employed, many of whom reside in Pittsburg. Many shoppers residing at Antioch regularly visit the Pittsburg stores, and during the summer some 2000 people travel between the two communities to attend the baseball games. From these sources applicant expects to draw heavily; in his opinion, the service can be inaugurated with a minimum of 250 regular patrons.

As amended at the hearing, the application proposes 35 round trips daily between Pittsburg and Antioch, on a half-hour headway beginning at 7:00 A.M. and ending at midnight. This schedule, so applicant testified, has been designed to accommodate changes occurring at various hours in the shifts at the plants, of which but few occur during the early morning hours, since these changes involve only a small number of employees. The scheduled time of twelve minutes allowed to traverse the four miles between Pittsburg and Antioch seems somewhat short, in view of necessary stops at the intermediate plants, and should be lengthened to such a degree as to

make the operation feasible.

Applicant proposes to establish a single fare of 15 cents between Pittsburg and Antioch; 10 cents between Antioch and any of the plants; and 5 cents between Pittsburg and the plants and between the plants themselves. A 10-ride book of non-transferrable tickets will be sold at 60% of the one way fare. These fares are on the same level as the 5 cent fare established by Buffo & Coniglio and by Pettas between Pittsburg and the plants; and are substantially lower than those of Ward Auto Stages between Pittsburg and Antioch, viz., 25 cents for single rides, and a 40-ride book for \$6.00, or the equivalent of 15 cents per trip. Applicant estimated that with a minimum of four passengers per trip, yielding an average revenue of 36 cents, he can operate profitably, an estimate that seems somewhat low. In this service applicant will use two busses, viz., a 1925 Pierce Arrow 27-passenger bus and a 1925 Doris 30-passenger bus. For overflow or emergency purposes he has available a Studebaker 7-passenger car.

On behalf of applicant, several merchants and business men of Pittsburg and Antioch, some of whom were city and county officials, as well as representatives of various industrial plants, were called.

Voicing the needs of Pittsburg business institutions, three substantial merchants testified that because of the high fares and infrequent schedules of Ward Auto Stages, shoppers from Antioch patronizing their establishments, from whom was derived a large part of their business, preferred to drive their own cars, and quite frequently several of them would drive together. In their judgment the establishment of a service providing more frequent schedules at lower fares will encourage bus travel, and thus

stimulate the business of Pittsburg merchants.

From the testimony of two business men of Antioch, it was disclosed that approximately two-thirds of the industrial workers living in Antioch are now employed along Industrial Row. In their judgment the service of Ward Auto Stages, although providing adequate connections at Pittsburg with the trains of the Sacramento Northern Railway, is too infrequent and the hours of leaving too inconvenient to meet the requirements of these employees. Because of the need for close rail connections, the bus schedules are not adapted to the hours when changes in the shifts occur. For this reason many employees are compelled to drive their own cars, a practice which would be to a substantial extent discontinued were an adequate service established.

Various representatives of the industrial plants also testified on behalf of the applicant. From the testimony of two officials of the Columbia Steel Corporation it appears that of some 2500 men employed at the plant, approximately 650 live at Antioch, most of whom now drive their own cars or ride with other employees. Though the number of employees using their own cars has increased in recent years, this was attributed primarily to inconvenient bus schedules and high fares, and were this situation remedied, many employees would leave their cars home. To accommodate the many shift changes at this plant, a service providing frequent schedules is required.

Speaking for the Great Western Electro Chemical Company, three representatives testified that of a total of some 300 employees, approximately one-third live in Antioch, most of whom now use their own cars because the schedules of the existing bus line are inconvenient and the fares too high. No bus service, they stated, is available to accommodate the morning and midnight shift

changes; only the afternoon shift is adequately served. Because of this fact, the company itself formerly provided transportation for its employees but no longer does so. The busses of protestants, it appears, no longer handle any employees residing at Pittsburg.

An employee of the asparagus plant, conducted by the California Packing Corporation, at Antioch, testifying in her own behalf, stated that during the season extending from November 15th to May 1st some 600 or 700 women are employed at the cannery, of whom about 150 reside in Pittsburg. Formerly, they were transported under commutation fares by Ward Auto Stage, but lately they have been traveling in private cars or by what is alleged to be a "private bus" service operating under contract, handling employees only at a fare of \$1.00 a week.

Various petitions were received naming some 546 signatories, all of whom urged the granting of the application. Of these, 463 comprised employees of the various plants, fifty-three were Pittsburg merchants, and thirty, merchants from Antioch.

Representatives of the protestants described the service they performed and their efforts to overcome the constant drift to private cars.

On behalf of Ward Auto Stages, Mr. E. H. Ward testified that he operated under a "prior right", serving the plants on Industrial Row and Pittsburg, where he connected with the trains of the Sacramento Northern Railway. Employees of these plants patronized the early morning bus but they rarely rode at other times. The schedules, so he stated, had been designed to conform to changes in the shifts and were based on experience. Many vacant seats are available and the facilities are adequate. The competition of private cars has caused a continual decrease in the number of bus patrons, whom he has found it impossible to win back. In his opinion, applicant's proposed terminal is inconveniently located and the service cannot be operated profitably.

From the testimony offered by protestant John Buffo, it appears that under a certificate granted in 1924, he operates a bus line between Pittsburg and the industries located east of that point. In this service he uses one 1928 Graham 27-passenger bus, operating under schedules designed to meet changes in the shifts, at a fare of 5 cents for a single trip. He accommodates the principal shifts at the Columbia Steel Corporation and other industries, but abandoned service to the plant of Great Western Electro Chemical Company when some six months ago the patronage decreased to only six passengers.

Protestant Dennis Pettas, who also operates under a certificate granted in 1924, between Pittsburg and the industries lying east of that point, at a 5 cent fare, uses in this service two busses - one a 1927 Fageol 30-passenger bus, and the other a 1925 Fageol 25-passenger bus. Because of the diminishing patronage he has decreased his schedules from six or seven daily to but three round trips, this being due, so he stated, to the continually increasing use by employees of their own cars. He also formerly served the plant of the Great Western Electro Chemical Company but discontinued when the patronage vanished.

Both of these operators testified they were operating at a loss, notwithstanding every effort to adapt their service to the needs of the public. On cross examination, applicant himself conceded that the present service between Pittsburg and the plants was adequate.

From the showing presented, it appears that the service of Ward Auto Stages between Antioch and Pittsburg and between Antioch and the intermediate mills is wholly inadequate to meet the needs and requirements of residents of Antioch having business

at Pittsburg, and of those who are employed at the various plants. Because of the necessity for meeting the Sacramento Northern trains at Pittsburg, the schedules are not adapted to the frequently changing shifts, and the fares are too high to attract this type of patronage. The evidence is convincing that the bus traffic would increase substantially were the fares lowered and the schedules operated at more convenient hours. Such a service, the record discloses, would induce the plant employees to leave their cars home, thus stimulating bus travel.

The evidence, however, is not so clear as to the necessity for any additional service between Pittsburg and the industrial plants. The protesting carriers have accorded an adequate service, at low fares, and at hours convenient to the employees, the schedules being designed to accommodate changes in the shifts. No representative of these plants voiced any disapproval of the service; in fact, applicant admitted its sufficiency.

Under the circumstances a certificate will be granted to applicant authorizing the establishment of a bus service between Pittsburg and Antioch, and between Antioch and the various plants. However, applicant will not be permitted to handle passengers between Pittsburg and the plants.

Based upon the evidence offered at the hearing in this matter,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
FINDS AS A FACT:

I. That public convenience and necessity require the operation by G. H. Jenkins, as a passenger stage corporation, as defined in Section 2-1/4, Public Utilities Act, of a passenger stage service for the transportation of persons and their baggage

between Pittsburg and Antioch, and intermediate points, except as hereinafter found;

2. That public convenience and necessity do not require the operation by G. H. Jenkins of any service as such passenger stage corporation for the transportation of persons, and/or their baggage, between Pittsburg and the plants of Johns-Manville, Inc., California Redwood Manufacturers Company, Columbia Steel Corporation, Pioneer Rubber Mills and Great Western Electro Chemical Company, nor between any of said plants.

G. H. Jenkins is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

A public hearing having been had in the above entitled proceeding, evidence having been received, the matter having been duly submitted, and the Commission now being fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA DOES HEREBY DECLARE that public convenience and necessity require the operation by G. H. Jenkins, as a passenger stage corporation as defined in Section 2-1/4, Public Utilities Act, of a passenger stage service for the transportation of persons, and their baggage between Pittsburg and Antioch, and intermediate points, over and along the following route, to-wit:

Commencing at the intersection of Railroad Avenue and East Third Street, in the City of Pittsburg, and extending easterly along East Third Street to the westerly boundary of said City, and thence over and along the County Highway connecting with said East Third Street, and running parallel to the industrial spur tracks of The Atchison, Topeka & Santa Fe Railway Company, as now located, adjacent to the plants of Johns-Manville, Inc., Redwood Manufacturers Company, Columbia Steel Corporation, Pioneer Rubber Mills, and Great Western Electro Chemical Company, to the intersection of said Highway and the County Highway extending southerly from the plant of Great Western Electro Chemical Company; thence southerly along said Highway to the intersection thereof with the County Highway running parallel to the tracks of the Southern Pacific Company; thence westerly along said County Highway to the easterly boundary of the City of Antioch; thence over Fourth Street, in said City of Antioch, to a terminal located at the intersection of Fourth and I Streets; as said route is delineated by the red line appearing upon the map filed in this proceeding, March 2, 1936, as Amended Exhibit "D";

PROVIDED, however, that no passengers nor baggage may be carried between Pittsburg and the junction of said Highway paralleling the said spur tracks of The Atchison, Topeka & Santa Fe Railway Company, and the County road extending southerly from the plant of Great Western Electro Chemical Company, as hereinabove described, nor from or to any intermediate point, or points, nor between Pittsburg and any of said plants now located along said Highway paralleling said spur tracks of The Atchison, Topeka & Santa Fe Railway Company, or which may hereafter be located thereon, or adjacent thereto, nor between any of the said plants themselves.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to the said G. E. Jenkins, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.
5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 22nd day of

June, 1936.

M B Harris
Leon Whitwell
W H Lee
Paul R. Brown
Commissioners.