

Decision No. 30108

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
NAPA VALLEY BUS COMPANY, a corporation, )  
to extend its operative rights from )  
Vallejo, California (including Vallejo), ) Application No. 20805  
to San Francisco, California, via San )  
Francisco-Oakland Bay Bridge. )

NATHAN F. COOMBS and SANBORN, ROEHL & MacLEOD,  
by H. W. SANBORN AND CLAIR W. MacLEOD, for Applicant,

H. S. LUCAS, for Pacific Greyhound Lines, Protestant

E. J. FOULDS, for Southern Pacific Golden Gate  
Ferries, Ltd., Protestant,

A. L. WHITTLE, for Southern Pacific Company,  
Protestant,

GEORGE W. GERHART, for Civic League of Improvement  
Clubs and Associations, interested party,

FITZGERALD AMES, J. E. MUNRO and W. E. HIBBETT  
for Sacramento Motor Transport Company, interested party.

BY THE COMMISSION:

O P I N I O N

By its application, as amended, Napa Valley Bus Company, a corporation, seeks a certificate of public convenience and necessity authorizing the extension of its present passenger stage operations between Calistoga and Vallejo to San Francisco, serving no intermediate points between Vallejo and San Francisco. Although the application was originally made contingent upon the abandonment of the ferry service conducted by Southern Pacific-Golden Gate Ferries, Ltd. between San Francisco and Vallejo, as sought in Application No. 20742, it was subsequently amended so as to allege

the need for such an extension, irrespective of the action taken upon the application to eliminate the ferry service. In its Third Amended Application, applicant seeks to confine the transportation of express to that handled under contract for Railway Express Agency, a right which, it is alleged, applicant now enjoys in connection with the operation of its trains and its busses between Vallejo and Calistoga. The granting of this application was protested by Pacific Greyhound Lines, Southern Pacific-Golden Gate Ferries, Ltd., and Southern Pacific Company. The Civic League of Improvement Clubs and Associations and the Sacramento Motor Transport Company appeared as interested parties.

A public hearing was had before Examiner Austin at San Francisco on June 9, 10, and 15, 1937, when evidence was offered, the matter was submitted on briefs, since filed, and it is now ready for decision.

The applicant, Napa Valley Bus Company, is a subsidiary of Napa Valley Railroad which since 1905 has operated an electric railroad between Calistoga and Vallejo, where it connects with the steamers formerly operated by Monticello Steamship Company between Vallejo and San Francisco. Throughout this period the railroad has served Vallejo, Napa Valley and Lake County points. Applicant is now operating as a passenger stage corporation between Calistoga and Vallejo under certificates granted by this Commission.

In 1929 the boat line passed from the control of the Monticello Steamship Company to that of Southern Pacific-Golden Gate Ferries, Ltd., which has since operated it. In September,

1936, the latter company sought permission by Application No. 20742 to abandon the San Francisco-Vallejo ferry service. Following a public hearing, the Commission, on January 18, 1937, by its Decision No. 29464, denied the application without prejudice. However, the submission was subsequently set aside, further hearing was had, and by its Decision No. 30086 dated September 7, 1937, the Commission authorized the abandonment of this ferry service.

The record shows that during the year ending November 30, 1936, some 51,801 passengers were interchanged between the ferry and the railroad. During the first four months of 1937 the passengers interchanged at Vallejo decreased approximately 50% below those interchanged during the corresponding period of 1936. The railroad's share of the revenue was relatively less, since its strictly local traffic, in which the ferry did not participate, was handled under low commutation and other fares. It is estimated that of the traffic handled by the railroad and the bus line approximately 60% was interchanged with the ferry.

Following the rendition of our Decision No. 29464, in Application No. 20742, the Southern Pacific-Golden Gate Ferries, Ltd. undertook to curtail the service between Vallejo and San Francisco. The changes thus effected, the record abundantly shows, have resulted in diverting from the Napa Valley Railroad and its affiliated bus line a substantial part of its through traffic. This is due to fewer boat schedules resulting in delays, to changes in the schedules which did not permit the operation of trains or busses at hours convenient to the public, and to the elimination of ferry schedules necessitating the abandonment of

train service conducted at convenient hours to which the public had become accustomed. To comment further upon the evidence surrounding this situation would be an act of superarrogation. Because of the abandonment of the ferry service, this has become a false quantity in the case. We are now confronted with the total abandonment of the ferry service, which will prevent the railroad or the bus company from providing transportation for its passengers to San Francisco unless some other method is substituted.

It was clearly established that over a period of many years the Napa Valley Railroad transported a substantial number of through passengers originating at points in Lake County and Napa Valley and destined to San Francisco. For the year ending November 30, 1936, approximately 52,000 of such passengers were transported.

The protestant Pacific Greyhound Lines points to the increase in its passenger traffic carried between this territory and San Francisco and to the increased service which has been afforded to meet this demand. This carrier, however, was not the pioneer in the territory. It is apparent that its increased passenger traffic has been derived largely from the failure of the Southern Pacific-Golden Gate Ferries, Ltd. to provide a boat service which adequately met the demands of the patrons of the railroad and bus lines.

The record shows that the motor coach line of this protestant parallels that of applicant for its entire distance between Vallejo and Calistoga. So it is reasonable to assume that unless applicant is permitted to provide a means for handling the

traffic between this territory and San Francisco, the patronage previously enjoyed by the Napa Valley Railroad and its affiliated bus line will rapidly dwindle to the vanishing point.

The suggestion of Southern Pacific Company that applicant's certificate be extended so as to permit a connection with said protestant's rail line at Crockett does not meet the situation. It does not appear that the connecting rail schedules are such as to enable the applicant or its parent line to continue the performance of the through service to which the public is entitled.

Upon consideration of all the facts, the Commission is of the opinion and hereby concludes that a certificate of public convenience and necessity should be granted, authorizing applicant to extend its service between Vallejo and San Francisco. However, no showing was made which would warrant us in permitting applicant to handle passengers locally between Vallejo and San Francisco and intermediate points.

NAPA VALLEY BUS COMPANY 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 held, evidence having been adduced, the matter having been submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Napa Valley Bus Company, a corporation, of a common carrier automotive service for the transportation of passengers, baggage and express as a passenger stage corporation, as defined by Section 2-1/4 of the Public Utilities Act, between the City of Vallejo, on the one hand, and the City and County of San Francisco, on the other hand, as an extension and enlargement of, and to be consolidated with, its present automotive common carrier operative right between Calistoga and Vallejo, subject to all restrictions and conditions imposed thereunder, together with the further restrictions that:

1. The carriage of express shall be limited to packages weighing not in excess of one hundred (100) pounds, transported under contract with Railway Express Agency, Inc., and shall be handled on passenger vehicles only.
2. No passengers, baggage or express shall be transported locally between San Francisco and Vallejo; between San Francisco and Vallejo, respectively, and points intermediate to San Francisco and Vallejo; nor between points intermediate to San Francisco and Vallejo.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to Napa Valley Bus Company, a corporation, 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.

6. The service authorized herein shall commence contemporaneously with and not before the discontinuance and abandonment of ferry service by Southern Pacific-Golden Gate Ferries, Ltd. between San Francisco and Vallejo.

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 7<sup>th</sup> day of September, 1937.

  
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Leon Whittle

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COMMISSIONERS.