

Decision No. 32238

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SANTA FE TRANSPORTATION COMPANY,
a California corporation, for cer-
tificate of public convenience and
necessity to operate a passenger
stage service, as a common carrier
of passengers and baggage, between
Del Mar and Del Mar Race Track.

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Application No. 22141

ROBERT BRENNAN and W. F. BROOKS, for Applicant.

R. B. WREN, H. D. RICHARDS and H. C. LUCAS,
for Pacific Greyhound Lines, Protestant.

BY THE COMMISSION:

O P I N I O N

The Santa Fe Transportation Company, a corporation, seeks a certificate of public convenience and necessity to establish and operate an automotive service, as a common carrier of passengers and baggage, between Del Mar and Del Mar Race Track as an extension and enlargement of its existing services, consolidated therewith and co-ordinated with the rail service of The Atchison, Topeka & Santa Fe Railway Company.

A public hearing was held before Examiner Cameron at Del Mar on April 28, 1939, where the matter was submitted and it is now ready for decision. The granting of this application was protested by the Pacific Greyhound Lines.

The Railroad Commission has outlined and reviewed the status of applicant in its decision ⁽¹⁾ in a former proceeding. This decision, in addition to granting other operative rights, granted

(1) Decision No. 30790, dated April 18, 1939.

to applicant a certificate of public convenience and necessity to operate an automotive passenger stage service for passengers, baggage and express, between Los Angeles and San Diego and intermediate points by way of Santa Ana and Long Beach, co-ordinated with the rail service of The Atchison, Topeka & Santa Fe Railway Company.

The Twenty-second District Agricultural Association has constructed a race track and fair grounds on a County Highway approximately one mile from State Highway No. 101 at Del Mar, California. Applicant conducts its present passenger stage service over State Highway No. 101 and seeks authority in this application to inaugurate a passenger service from this highway to the race track and fair grounds over said County Highway.

The evidence shows that applicant conducts nine round trip bus services daily between Los Angeles and San Diego, one by way of Santa Ana. That The Atchison, Topeka & Santa Fe Railway Company, of which applicant is a subsidiary, conducts a daily train service between Los Angeles and San Diego and that special trains are operated between Los Angeles and the Del Mar Race Track when traffic demands. Regular train and bus service operating between Los Angeles and San Diego do not go to the track, and passengers destined to the race track patronizing the regular train and bus service disembark at the Del Mar rail and bus stations. Such passengers are compelled to either walk or secure means of transportation from the Del Mar stations to the race track and fair grounds, a distance of about one mile.

Ray M. Primrose, Passenger Agent for the Santa Fe Bus Lines for San Diego, stated that during the 1938 racing meet inquiries both at the rail and bus depots for service to the track averaged approximately from 50 to 75 daily. W. H. Quigley, General

Manager of Del Mar Turf Club, testified that he was familiar with the rail and bus service now available and the service proposed to be furnished by applicant herein; that it was his opinion that the public patronizing applicant's service attending the racing meets needed the service applicant now seeks authority to perform, and that facilities will be made available at the track for the loading and unloading of passengers for this service. He further stated that while the service of the Pacific Greyhound Lines, which is the only passenger stage line serving the Del Mar Race Track at the present time, rendered a satisfactory service, he felt there was a public need for the service proposed to be rendered by the Santa Fe Transportation Company.

Applicant proposes to co-ordinate the bus service with the Atchison, Topeka & Santa Fe Railway Company rail service. This co-ordinated service will offer the traveling public patronizing the race track and fair grounds the option of utilizing all of the facilities of either the rail or the bus service. It was shown, on behalf of the protestant during the proceedings, that, in the year 1937 during the racing meet at Del Mar, between 11:00 A.M. and 1:00 P.M. daily only ten passengers per schedule were carried to the track from Los Angeles. During the 1938 racing meet two buses operated daily from Los Angeles and nineteen buses from San Diego to the Del Mar Race Track, and that 95 per cent of all persons patronizing the service of Pacific Greyhound Lines attending the racing meets were transported on special buses; that the protestant, as far as its records disclosed, was always able to render a satisfactory service and on no occasion were any passengers inconvenienced for lack of transportation facilities. However, there is conflict in the testimony on this point, as the record discloses from the evidence that persons patronizing the regular bus and rail service of the applicant and The Atchison, Topeka &

Santa Fe Railway Company, respectively, who disembarked at the bus or rail stations at Del Mar had no means of securing transportation to the track except at considerable cost and inconvenience. The evidence shows that the passenger traffic to the fair and racing meets is seasonal; that the demand for service exists only during the periods of the year when the fair or racing meets are being conducted; that the schedule proposed to be rendered will be regulated to suit the public requirements during these periods and that the applicant is financially sound and able to provide the necessary bus facilities and service to adequately satisfy the traffic demands which have existed in the past and which, according to testimony, may exist in the future.

The fares proposed to be charged between Los Angeles and San Diego and intermediate points to Del Mar Race Track will be the same as those now published between Los Angeles and San Diego and intermediate points to Del Mar, California, as shown in Local and Joint Passenger Tariff No. 2, C.R.C. No. 2, on file with the Railroad Commission, and such fares will apply for the transportation of passengers to Del Mar Race Track. Tickets are to be interchangeable between bus and train.

A careful review of this record leads to the conclusion that applicant should be granted a certificate to operate its buses between Del Mar, on the one hand, and Del Mar Race Track, on the other hand, during the racing season and on race days only.

Santa Fe Transportation 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

Public hearing having been held in the above-entitled application, evidence both oral and documentary having been submitted, and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by the Santa Fe Transportation Company, a corporation, of a common carrier automotive passenger stage service for the transportation of passengers and their baggage, as a passenger stage corporation as that term is defined in section 2 $\frac{1}{2}$ of the Public Utilities Act, between Del Mar, on the one hand, and Del Mar Race Track, on the other hand, over the following route:

From the intersection of Grand Avenue and Highway No. 101 in the center of the business district of Del Mar, California; thence along Grand Avenue to the Santa Fe Spur Track; thence along County Road to the entrance of the fair grounds and race track; thence to San Diegueto Road and west on San Diegueto Road to Highway No. 101,

as an extension and enlargement of applicants existing rights, as an heretofore granted by Decision No. 30790, consolidated therewith subject to existing restrictions and limitations contained therein, and co-ordinated and integrated with the rail service of The Atchison, Topeka & Santa Fe Railway Company.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to the Santa Fe Transportation Company, a corporation, applicant herein, to perform the service above set out, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof.
3. Applicant herein and The Atchison, Topeka & Santa Fe Railway Company shall file with the Railroad Commission within a period not to exceed twenty (20) days documentary proof that they shall simultaneously inaugurate the co-ordinated and integrated rail and stage service between Los Angeles and San Diego and intermediate points and Del Mar Race Track and Fair Grounds.
4. Applicant herein and The Atchison, Topeka & Santa Fe Railway Company shall simultaneously inaugurate their proposed co-ordinated and integrated rail and stage service between Los Angeles and San Diego and intermediate points and Del Mar Race Track and Fair Grounds, subject to all of the conditions herein contained.
5. 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.
6. 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.
7. 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.
8. The service herein authorized shall be operated during the racing season and on race days only.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 8th day of
August, 1939.

Richard A. ...
Frank ...

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Justin D. ...
COMMISSIONERS