

Decision No. 23743

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of STOCKTON  
ELECTRIC RAILROAD COMPANY, )

(a) for authority to suspend certain of its )  
street railway service in the City of Stock- )  
ton, California; )

(b) for a certificate of public convenience )  
and necessity for the exercise of a permit )  
of the City of Stockton for a motor coach )  
service in substitution for the street rail- )  
way service so to be suspended; and )

(c) for a certificate of public convenience )  
and necessity for the transportation of pas- )  
sengers by motor coach in the City of Stock- )  
ton, California. )

ORIGINAL

Application  
No. 23743

HUGH FULLERTON, and TOM B. QUINN, for Applicant

JOSEPH C. TOPE, for the City of Stockton

RILEY, COMMISSIONER:

O P I N I O N

The Stockton Electric Railroad Company by its application filed October 7, 1940, and amendment thereto filed October 21, 1940, asked for authority to temporarily suspend street car service on its Poplar-Main Line No. 3 and on its Poplar-Ophair Line No. 4 in the City of Stockton, and asked for a certificate of public convenience and necessity to place in operation passenger motor coach service in lieu of said street car service, with certain extensions.

A public hearing was held in Stockton on October 25, 1940, at which time the matter was submitted for determination.

All of the service of applicant has for many years been performed by street car. However, the entire system is expected to be ultimately converted to motor coach operation. In order to gain experience in this type of operation the temporary substitution on the

two above-mentioned lines is proposed.

During this temporary period applicant proposes to maintain the track and overhead structure so that street car operation can be resumed if necessary.

The City of Stockton, by Ordinances Nos. 1571 and 1581, gave its consent to this trial substitution provided, however, that such trial would expire automatically September 1, 1941. Applicant is agreeable to the terms of said ordinances.

Applicant proposes to place in service in this operation new 30-passenger buses and a schedule arranged to provide a more convenient service than is presently being performed.

A review of the entire record leads me to the conclusion that the temporary substitution of motor coaches for street cars on the lines involved herein should be authorized in order that experience may be gained with respect to service and financial results of such motor coach operation, and it is recommended that the application be granted.

Stockton Electric Railroad 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, the matter having been submitted, and being now ready for determination,

IT IS HEREBY ORDERED that Stockton Electric Railroad Company

is hereby authorized to temporarily suspend street car service on its Poplar-Main Line No. 3, and on its Poplar-Ophir Line No. 4, described as follows:

Poplar-Main Line No. 3:

Commencing at Main and Filbert Streets; thence west on Main Street to El Dorado Street; thence north on El Dorado Street to Poplar Street; thence west on Poplar Street to Yosemite Street; thence north on Yosemite Street to Willow Street; thence west on Willow Street to Pershing Street;

Poplar-Ophir Line No. 4:

Commencing at Ophir Street and Harding Way; thence south on Ophir Street to Main Street; thence west on Main Street to El Dorado Street; thence north on El Dorado Street to Poplar Street; thence west on Poplar Street to Yosemite Street; thence north on Yosemite Street to Willow Street; thence west on Willow Street to Pershing Avenue;

subject, however, to the following conditions:

- (1) Applicant shall give the public not less than five (5) days' notice of the temporary suspension of street car service authorized herein, and of the substitution of motor coach service therefor, as authorized hereinafter.
- (2) Said suspension of street car service shall be made effective concurrently with and not before the establishment of temporary motor coach service, as authorized hereinafter.
- (3) Applicant shall, within thirty (30) days thereafter, notify the Commission of its compliance with the provisions of this order.
- (4) Applicant shall, during the period of suspended service, maintain its tracks and overhead structure in such condition that it will be readily available for the re-establishment of street car service.
- (5) The authority herein granted shall lapse and become void on September 1, 1941, unless further time is granted by subsequent order.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Stockton Electric Railroad Company, as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$  of the Public Utilities Act, of a temporary automotive passenger stage service for the transportation of passengers upon and along the following described routes in the City of Stockton:

Poplar-Main Coach Route:

Commencing at Main and Marsh Streets; thence east on Marsh Street to Filbert Street; thence south on Filbert Street to Main Street; thence west on Main Street to El Dorado Street; thence north on El Dorado Street to Poplar Street; thence west on Poplar Street to Yosemite Street; thence north on Yosemite Street to Willow Street; thence west on Willow Street to Buena Vista Avenue; thence south on Buena Vista Avenue to Rose Street; thence east on Rose Street to Argonne Drive; thence east on Argonne Drive to Pershing Avenue; thence north on Pershing Avenue to Willow Street.

Ophir Coach Route:

Commencing at Pinchot and Ophir Streets; thence east on Pinchot Street to Sierra Nevada Street; thence north on Sierra Nevada Street to Harding Way; thence west on Harding Way to Ophir Street; thence south on Ophir Street to Minor Street; thence west on Minor Street to Grant Street; thence south on Grant Street to Weber Avenue; thence west on Weber Avenue to California Street; thence south on California Street to Main Street; thence east on Main Street to American Street; thence north on American Street to Weber Avenue.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Stockton Railroad Company 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) Rates of fare in volume and effect shall be identical with the rates and rules now in effect on said Stockton Electric Railroad Company's street car lines hereinbefore authorized to be abandoned.
- (3) Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than one (1) day's notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Commission.
- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred, nor assigned unless the written consent of the 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 Commission.

- (6) Applicant is authorized to turn its motor vehicles at termini, either in the intersection of the streets or by operating around a block contiguous thereto in either direction, and to carry passengers as traffic regulations of the municipality may require.
- (7) The authority herein granted shall lapse and become void on September 1, 1941, unless further time is authorized by subsequent order.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

For all other purposes the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of October, 1940.

Ray & Berry  
Stuart M. Berry  
Ralph W. Berry  
M. M. Berry  
Justin J. Casner  
Commissioners