

Decision No. 35411

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HERBERT G. NORVELL & WILLARD NEVILLE,)
co-partners, in business of passenger)
transportation between 11th & Eye Sts.)
in the City of Modesto and the Modesto)
Municipal Airport, by authority of)
Decision No. 33315 of the Railroad)
Commission of the State of California,)
for authority to reroute.)

Application No. 24825

ORIGINAL

BY THE COMMISSION:

O P I N I O N

In this proceeding, Herbert G. Norvell and Willard Neville, co-partners engaged in business under the firm name of Airport Transit, (referred to subsequently as the applicant) seek a certificate of public convenience and necessity under Section 504, Public Utilities Act, authorizing a change in the route of the passenger stage service now conducted by applicant between 11th & "I" Streets, in the City of Modesto, and the Modesto Municipal Airport. Objections were raised by certain individuals who requested a slight change in the route to obviate alleged traffic hazards which otherwise assertedly would be created; and also by Willis Kleinenbroich, the operator of a local bus system within the City of Modesto, who contended that, were the route changed, as proposed, applicant would be enabled to compete more effectively with him for traffic common to their lines. The Modesto city officials have approved applicant's proposal, as modified to meet the objections above mentioned.

(1)

Under a certificate granted by the Commission, applicant conducts a passenger stage service between the Stanislaus County Courthouse at 11th and "I" Streets, and the Modesto Municipal Airport, located outside the municipal limits, a distance of approximately 2.9 miles. That decision provided that the service should be performed over the route extending from 11th and "I" Streets, via "I" Street, 14th Street, Grand Street, Waterford Road, Santa Cruz Avenue, and Tuolumne Avenue to Modesto Municipal Airport; and returning via Sierra Avenue, Santa Cruz Avenue, Waterford Road, and as described above to 14th and "H" Streets; thence via "H" and 11th Streets to the corner of 11th and "I" Streets.

By the present application, substantial changes in the route are proposed. Generally speaking, it would be moved some five or six blocks northward from the existing route. The new route, embracing a total distance of approximately three miles, extends from 11th and "I" Streets, via "I" Street, 12th Street, "H" Street, La Loma (with an optional route via Roble Avenue, from its junction with La Loma at Bonita, to its junction with North Santa Ana Avenue, thence via North Santa Ana to its junction with La Loma), North Santa Ana Avenue, Santa Ana Avenue, Mono Drive, Santa Cruz Avenue, Sierra Avenue, Empire Avenue, and Tuolumne Avenue to Modesto Municipal Airport; and returning over the same route to 12th and "H" Streets; thence via "H" and 11th Streets to the corner of 11th and "I" Streets.

(1) By Decision No. 33315, rendered July 9, 1940, in Application No. 23491, applicant was authorized to conduct the service described above.

Under this proposal, applicant's bus line would be more accessible to the residents of certain districts which it now serves. Inhabitants of the area bordering La Loma, who now must walk four blocks or more, would be served directly. This district, situated approximately one mile from the central business section, would yield a substantial volume of traffic. A more convenient and direct service would be afforded the Sierra Avenue section, where a substantial share of applicant's traffic originates. Children would be carried direct to the Wilson School; at present, they must walk a distance of one block from the bus line.

To shift the route from 14th Street and Grand Street, which it now traverses, to "H" Street and La Loma, some six blocks to the north, it was shown, would work no substantial hardship. The district adjacent to Grand Street, between Burney Street and Waterford Road, is an industrial area productive of little traffic. Very few passengers originate in the territory bordering on 14th Street, which is within easy walking distance of the central business section. This is also true as to "H" Street, which forms a part of the new route.

Residents of the Santa Ana District objected to applicant's proposal, asserting it would create an undue hazard to children going to and from both the Wilson School and the playground nearby. Santa Ana Avenue, they pointed out, was too narrow for safe operation. To meet these objections, applicant suggested, as a modification of its original proposal, that the service be routed over Santa Cruz Avenue, one block west of Santa Ana. Protestants have announced their approval of this change.

The local bus operator, Willis Kleinenbroich, asserted that if applicant were to operate over La Loma, it would compete

directly with a service he now conducts, under municipal authority, some three blocks north of La Loma, as part of a loop operation providing transportation between this area and the central business district. Kleinenbroich suggested, as an alternative, that applicant diverge from Waterford Road, its present route, at Los Flores Avenue, following the latter to its junction with La Loma, proceeding thence as stated above. This would eliminate any operation via "H" Street and La Loma, between the junction of "H" and 14th Streets and the junction of Los Flores Avenue and La Loma. To adopt this course, however, would result in perpetuating the inconveniences now suffered by residents of the La Loma district who now ride the applicant's bus. Of the two operators, applicant would provide a more convenient service since its patrons can reach the downtown section in from seven to ten minutes, while Kleinenbroich carries the passengers around a loop, requiring approximately twenty minutes to reach the same destination. Moreover, his local one-way fare is seven cents, while that of applicant is but five cents. However, the applicant, at Kleinenbroich's suggestion, withdrew its request for an optional route via Roble Avenue and North Santa Ana Avenue.

The city attorney of Modesto has advised the Commission that the Modesto city council has formally approved applicant's proposed changes in its route, within the municipal limits. It also appears that the city authorities have no objection to the proposed changes in the route beyond the city limits, as modified to meet the objections of the residents of the Santa Ana district.

A public need appears to exist for the proposed rerouting and accordingly the application, as modified, will be granted. No public hearing appears to be necessary. To facilitate future changes in the route, should they ever become necessary, an in

lieu certificate will be granted, specifying the terminals only, and defining the route as part of the service regulations, in accordance with our present practice.

O R D E R

Application having been made as above entitled; and the Commission being now of the opinion, and hereby finding, that public convenience and necessity so require:

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Herbert G. Norvell and Willard Neville, co-partners doing business under the firm name of Airport Transit, authorizing the operation of a passenger stage service, as defined by Section 24, Public Utilities Act, between the corner of 11th and "I" Streets in the City of Modesto, and the Modesto Municipal Airport, in lieu of the certificate heretofore granted to said applicants by Decision No. 33315, rendered July 9, 1940, in Application No. 23491.

Said certificate is granted subject to the following condition:

Herbert G. Norvell and Willard Neville, their successors or assigns, may never claim before this Commission, or any court or other public body, a value for the authority hereby granted in excess of the actual cost thereof.

(2) That, in the operation of a passenger stage service pursuant to the foregoing certificate, the following service regulations shall be observed:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.

2. Applicant shall comply with the provisions of General Order No. 79, and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.
3. Subject to the authority of the Commission to change or modify it at any time by further order, applicant shall conduct said passenger stage operations over and along the following route:

From 11th and "I" Streets, via "I" Street to 12th Street; via 12th Street to "H" Street; via "H" Street to La Loma; thence via La Loma to North Santa Ana Avenue; thence via North Santa Ana Avenue to Waterford Road; thence via Waterford Road to Santa Cruz Avenue; thence via Santa Cruz Avenue to Sierra Avenue; thence via Sierra Avenue to Empire Avenue; thence via Empire Avenue to Tuolumne Avenue; thence via Tuolumne Avenue to Modesto Municipal Airport.

Returning over the same route to 12th and "H" Streets; thence via "H" Street to 11th Street; thence via 11th Street to the corner of 11th and "I" Streets.

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

Dated at San Francisco, California, this 26th day of May, 1942.

Justus J. Callahan
Ray & Rice

Richard L. Lusk
COMMISSIONERS