

ORIGINAL

Decision No. 35973

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ARLOF N. WRIGHT, doing business as)
 EL SOBRANTE-RICHMOND BUS SERVICE,)
 for a certificate of public con-)
 venience and necessity, authorizing)
 an extension of operations for the)
 transportation of passengers to and)
 from Point San Pablo, and for)
 authority to change route of operation)
 in the City of Richmond.)

Application No. 25285

AARON H. GLICKMAN, for applicant.

G. L. FOX, for Richmond Chamber of Commerce,
in support of applicant.

R. C. OGDEN, for Red Rock Fisheries
Incorporated, in support of applicant.

LEO G. MARCELLO, for Thomas M. Carlson, City
Attorney of Richmond, interested party.

DONAHUE, RICHARDS AND HAMLIN, by Frank S.
Richards, for Key System, protestant.

BY THE COMMISSION:

O P I N I O N

In the above-entitled application Arlof N. Wright, doing business as El Sobrante-Richmond Bus Service, requests a certificate of public convenience and necessity authorizing the establishment of a passenger stage service between certain residential sections in Richmond, on the one hand, and the plant of the Red Rock Fisheries Incorporated, at Point San Pablo, on the other hand. No local service is proposed.

Incidental to its major request, applicant also seeks a minor modification of one of the routes of its present passenger

stage operation between Richmond and El Sobrante. This modification would eliminate certain alleged hazardous traffic conditions prevailing at the intersection of 10th Street and MacDonald Avenue in the city of Richmond. The proposed extension to the Red Rock Fisheries is sought as an extension and enlargement of applicant's present operative right.

Applicant is now providing passenger stage service between the unincorporated community known as El Sobrante in Contra Costa County and the city of Richmond. El Sobrante is situated northeasterly of Richmond. This operation is so restricted by the terms of the certificate that no local service may be provided within the city of Richmond. It is designed primarily to provide a transportation service for employees of certain ship yards and oil refineries in Richmond in traveling ⁽¹⁾ between their homes and places of employment.

A public hearing was held in this matter before Examiner Paul, at Richmond, on October 19, 1942 at the conclusion of which the matter was submitted on briefs which have been filed and the matter is now ready for decision.

In the application herein considered, applicant proposes to establish an on-call service which is designed to provide public transportation for those persons employed at the plant of the Red Rock Fisheries. This plant is located in the extreme northwesterly section of the city of Richmond at a place known as Point San Pablo.

Applicant stated that he now has available four pieces

(1) That right was granted by the Commission's Decision No. 35426, dated June 2, 1942, in Application No. 24984.

of passenger stage equipment varying in seating capacity from 17 passengers to 36 passengers, with a total seating capacity of 104 passengers. Three of these stages are used in his present service and the fourth is held in reserve. It was his opinion that with that equipment he would be able to provide the proposed on-call service in addition to his regularly scheduled operation now in effect. The proposed fare would be 60 cents a round-trip. The approximate distance between termini on each of the routes is ten miles.

From evidence adduced at the hearing it was shown that there are presently employed at the Red Rock plant more than 200 persons, of which more than one-half are women. Women chiefly are used in the canning process. The plant was opened during the current season with a full crew, a great many of whom discontinued their service because of a lack of public transportation as they did not desire to use their own cars as they had formerly done. Since then a temporary arrangement has been made with applicant to provide transportation on a contractual basis which the cannery does not desire to continue.

This plant is engaged in the canning of California sardines for human consumption; the reduction of sardines for poultry feed; and the manufacture of fish oil as a companion product to the poultry feed or to meet certain military needs. It was shown that the 1942-1943 pack of sardines for human consumption has been reserved under contract for the United States governmental agencies and chiefly for the nation's military forces.

A witness for the fishery stated that to approximately October 19 of last season it had packed 95,000 cases of sardines but that, to date, during the current season it had packed only

41,500 cases. He asserted that this reduction in the quantity of the pack was due entirely to insufficient labor and that insufficiency of labor was due entirely to a lack of transportation. The fish were in the plant for canning but because of the shortage of labor it was necessary to divert them to the reduction plant. His explanation of this shortage due to the lack of transportation was that some employees had obtained employment elsewhere but that the majority, particularly the women, had lost their private transportation because of the shortage of rubber and the use of the family car by the man of the family who, in some cases, had obtained employment elsewhere.

That witness further asserted that the large majority of his employees resided in more or less well-defined residential sections of Richmond, and that the two routes proposed to be used by applicant were planned to serve those sections. The method to be employed in establishing the on-call service was described by the witness as follows: the sardine fishing season is governed by the statutes of this state, the limitations of which are at present from the early part of August of each year to the fifteenth day of February of the following year. At present, restrictions are imposed upon the arrival and departure of the fishing boats which may not leave the harbor later than 10:00 p.m. and may not enter the harbor until daylight. These boats are convoyed in and out of the harbor. No fishing of sardines is done during the full of the moon which covers a period of approximately one week. The reason, so it was asserted, is that the sardines do not "school up" during that phase of the moon. These boats generally arrive at the plant at approximately 9:00 a.m. Upon the arrival of a boat, the employees would be notified by telephone to report for work. The carrier would then be

notified to pick up these employees for transportation to the plant.

From the Chairman of the Traffic Committee of the Richmond Chamber of Commerce, it was adduced that employees at fisheries in the past have used their own cars because there was no public carrier facilities available. He pointed out that Red Rock Fisheries and other plants nearby have endeavored to provide some local housing for men employees only. This witness stated that the Chamber of Commerce was of the opinion that there is a public necessity for the proposed operation.

Key System opposed the granting of the authority sought. It furnishes local transportation service in Richmond, as well as service between Richmond and East Bay communities and San Francisco. As stated, Red Rock Fisheries is located at Point San Pablo. The nearest Key service terminates at the Richmond dock of the Richmond-San Rafael Ferry, some 4-1/2 miles distant from Point San Pablo. No public transportation service is available
(2)
to workers at the fishery.

Key's protest is based primarily upon the claim that Key, by virtue of an agreement which it was authorized to enter into with California Toll Bridge Authority in 1936 (Re Key System,

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- (2) At the hearing (October 19, 1942) Key's operating witness requested an opportunity to investigate and advise the Commission whether or not Key would be agreeable to the furnishing of service to Point San Pablo, indicating that a week or ten days would be sufficient time for such investigation and determination. In its brief (filed October 30, 1942) Key claims the exclusive right to furnish local service, but neither requests authority nor indicates any desire to serve Point San Pablo.

39 C.R.C. 646), has an exclusive right to furnish local service in Richmond. Exhibit "E" to that agreement describes certain territory which, in general, includes San Francisco, and all of the East Bay cities and intervening territory between Hayward and Richmond. The 1936 agreement with the Toll Bridge Authority provides, in part, that Key should have the exclusive right "to carry local passengers for hire over and/or upon any portion of said bridge", local passengers being defined as "passengers carried and transported upon or across said bridge, who have both origin and destination within the territory more particularly described and set forth in Exhibit 'E'..." The agreement provides further that nothing therein contained shall be deemed to prohibit others from transporting passengers over the Bay Bridge by automobile from or to points "within or without" Exhibit "E" territory "if such service shall be deemed to be necessary by the Railroad Commission...."

Whatever may be the legal effect of the 1936 agreement with the Toll Bridge Authority, we think it clear that such agreement does not relate to the proposed service within the city of Richmond, miles distant from and not involving the use of the Bay Bridge.

Protestant, in its brief, asserts that applicant, in connection with the proceeding wherein he was authorized to operate a service between El Sobrante and Richmond, signed a

(3) By the 1936 order Key System was "authorized to enter into that certain agreement respecting the operation of electric railway trains over "San Francisco-Oakland Bay Bridge" executed March 6, 1936, by Key System and California Toll Bridge Authority...." (39 C.R.C. 646, 662)

(4) See Re Key System, 40 C.R.C. 432, where Key was authorized to operate motor coach service over the Bay Bridge between San Francisco and Richmond.

(5) Decision No. 35426, Application No. 24984.

stipulation in which applicant waived "all local operative rights within" Exhibit "E" territory "which may be granted applicant" by any Commission order in that proceeding. Under the asserted stipulation, quoted in protestant's brief -- "Local operative rights are herein defined to mean the right to carry passengers between any two points, both origin and destination being within the territory described in said Exhibit 'E'."

If such a stipulation exists, we fail to see its relevancy in this proceeding. Furthermore, according to the reply brief, applicant has no recollection of having signed such a stipulation. And the record herein does not contain one word suggesting the existence of such a stipulation.

Without question, this record is convincing that there is a public need for the proposed service, and the application will be granted.

O R D E R

A public hearing thereon having been held, evidence adduced, briefs filed, and the matter submitted, and it being hereby found that public convenience and necessity so require:

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Arlof N. Wright, authorizing the establishment and operation of service as a passenger stage corporation, as defined in section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of passengers between the intersection of county road #7 (otherwise known as San Pablo Creek Highway) and U. S. Highway No. 40 and the Red Rock Fisheries

Incorporated plant at Point San Pablo, Richmond, and intermediate points, as an extension and enlargement of the operative right created by Decision No. 35426, subject to the following restriction and provision:

1. No passengers shall be transported excepting those having point of origin or point of destination at the plant of the Red Rock Fisheries Incorporated.
2. Service shall be operated seasonally only between approximately August 1 of each year and approximately February 15 of the succeeding year.
3. Arlof N. Wright, his successors or assigns, may never claim before this Commission, or any court or other public body, a value for any purpose for the certificate herein granted in excess of the actual cost incurred by him in securing said operative authority.

IT IS FURTHER ORDERED that the following language appearing in service regulation 3 (1) at sheet 4 of Decision No. 35426, reading as follows:

"....thence via 10th Street to Cutting Boulevard; thence diverging as follows:"

is hereby amended to read:

"....thence via 10th Street to Nevin Avenue, east on Nevin to 11th Street, south on 11th Street to Bissell Avenue, east on Bissell Avenue to 10th Street, thence via 10th Street to Cutting Boulevard; thence diverging as follows:"

IT IS FURTHER ORDERED that in the operation of the 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 rules of the Commission's 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. Applicant shall conduct said passenger stage operation over and along the following routes, subject to the authority of the Commission to change or modify them at any time by further order:

Route 1

Beginning at the intersection of county road No. 7 (San Pablo Creek Highway) and U. S. Highway No. 40; thence along said highway to Church Lane; thence along Church Lane, Market Street, 23rd Street, Pullman Avenue, Cutting Boulevard, Oil Street, Virginia Avenue, Standard Avenue, Scofield Avenue, Western Drive and county road No. 27 to Point San Pablo.

Route 2

Beginning at the intersection of county road No. 7 (San Pablo Creek Highway) and Evans Avenue; thence along Evans Avenue, San Pablo Avenue (U.S. Highway No. 40), county road No. 20, County Road No. 21, County Road No. 17, 13th Street, Chesley Avenue, Kelsey Street, Hensley Street, Critchet Avenue, 7th Street, Pennsylvania Avenue, 6th Street, MacDonald Avenue and Garrard Boulevard connecting with route No. 1 at the intersection of Garrard Boulevard and Standard Avenue.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 23rd day of November, 1942.

Frank C. Favre
Edward Backus

 COMMISSIONERS