

Decision No. 36637

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A. J. (BERT) CHAPIN, d/b/a NORTE)
SACRAMENTO STAGE LINE, to add inter-)
mediate points over and along the)
automobile stage line operated by)
applicant between Sacramento and the)
American River Hydro Electric Damsite,)
via "H" Street Bridge, Del Paso,)
Carmichael, Fair Oaks and Orangevale,)
California.)

Application No. 25690

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Among other passenger stage operations conducted by A. J. Chapin is one operated between Sacramento and the American River Hydro Electric Damsite and certain specified intermediate points, viz., "H" Street Bridge, Del Paso, Carmichael, Fair Oaks, and Orangevale. This operative right was originally created by the Commission's Decision No. 17834, rendered January 5, 1927, on Application No. 13089, which granted a certificate to one George R. Zurfluh. Zurfluh was authorized by the Commission to transfer this right to W. H. Pimental, predecessor in interest of Chapin. Pimental was subsequently granted a certificate in lieu of all his former rights, which includes that acquired from Zurfluh, which does not permit operation to intermediate points other than those specifically named. Applicant Chapin, in the above entitled proceeding, requests the Commission to enlarge this certificate to permit service at all intermediate points between the American River Hydro Electric Damsite and the "H" Street Bridge near Sacramento, including the last named point. This proposal does not include the right to serve points intermediate to the "H" Street Bridge and Sacramento.

In support of the authority sought, applicant alleges in substance as follows:

That the territory adjacent to the route traversed by applicant between Sacramento and Orangevale has become more populous, particularly since the establishment of McClellan Field and other war activities in and around Sacramento and North Sacramento; that great distances intervene between intermediate points to which applicant's operation is restricted; that the population is not centered in and around the intermediate points named, but is scattered over and along the entire route and that applicant desires to give the public a service which will not entail upon passengers the necessity of walking the distances intervening between the intermediate points involved.

The existing fares from and to points which applicant is authorized to serve would be applied from and to points intermediate thereto which applicant proposes to serve. It is asserted that applicant is the only passenger stage corporation operating along the route involved in the territory between the American River Hydro Electric Dam site and the junction of Fair Oaks Boulevard and Fulton Avenue near Sacramento.

After full consideration of this matter we are of the opinion that the authority sought is in the public interest and should be granted. No public hearing is necessary.

A. J. Chapin is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Application therefor having been filed, and it being hereby found that public convenience and necessity so require,

IT IS ORDERED that that portion of the order of Decision No. 35675, rendered August 11, 1942, in Application No. 25106, reading as follows:

"...(b) for the transportation of passengers, baggage and shipments of express weighing not in excess of one hundred pounds, on passenger vehicles only between Sacramento and American River Hydro Electric Damsite and the intermediate points of "H" Street Bridge, Del Paso, Carmichael, Fair Oaks and Orangevale;..."

is hereby amended to read:

"(b) for the transportation of passengers, baggage and shipments of express weighing not in excess of one hundred pounds, on passenger vehicles only between Sacramento and American River Hydro Electric Damsite and intermediate points, including "H" Street Bridge, Del Paso, Carmichael, Fair Oaks and Orangevale provided that no local service may be permitted between points intermediate to applicant's Sacramento terminal and the "H" Street Bridge over the American River, subject to the following provisions:

A. J. Chapin, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights."

IT IS FURTHER ORDERED that said Decision No. 35675 shall in all other respects remain in full force and effect.

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

Dated at San Francisco, this 5th day of October, 1943.

Francis D. Havenner
Richard L. ...
Justus F. ...

COMMISSIONERS