

Decision No 36910

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ESKDALE )  
 NEWTON, individual doing business as NEWTON )  
 PASSENGER TRANSPORTATION CO. for certifi- )  
 cate of public convenience and necessity to )  
 operate motor bus service, for the transpor- )  
 tation of passengers, between Stockton and )  
 intersection of California Highway No. 88 )  
 (formerly known of as Waterloo Road) and the )  
 Diverting Canal and intermediate points; and )  
 from the intersection of Wilson Way and E. )  
 Fremont Street to the intersection of )  
 Broadway and E. Fremont Street and inter- )  
 mediate points. )

ORIGINAL

Application  
No. 26021

BY THE COMMISSION:

O P I N I O N

This is an application by Eskdale Newton, doing business as Newton Passenger Transportation Company, for a certificate of public convenience and necessity authorizing operation as a passenger stage corporation between the intersection of E. Fremont and Sargent Streets in the city of Stockton, and the intersection of Broadway and E. Miner Avenue.

Applicant now operates a passenger service between Hunter Square, in the city of Stockton, and the intersection of the Diverting Canal and State Highway No. 88 (formerly known as Waterloo Road), and from the intersection of Wilson Way and E. Fremont Street to the intersection of Sargent Avenue and Poplar Street, subject to certain restrictions.<sup>(1)</sup>

The extension is justified, according to applicant, by the fact that it will provide public transportation service to an

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(1) Decision No. 36715, dated November 23, 1943, in Application No. 25808.

area presently not served, and for which a demand is said to exist. A canning plant, with approximately 100 employees under normal conditions, is located just outside the city limits east of Stockton. This plant, at the peak of the season, employs approximately 250 workers, engaged in the manufacture of tin cans for the preservation of food for the military and civilian population. The plant also manufactures parts for bombers used by Consolidated Aircraft Company. It is claimed that the proposed extension of service will better serve the needs of this company which has many employees living in the area effected. There are other industries in the territory which would be benefited, and the service would be a convenience to school children as well.

We are of the opinion that the proposed extension of service is in the public interest and that the application should be granted. A public hearing is not necessary.

Eskdale Newton 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**

It being found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Eskdale Newton authorizing operation as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ , Public Utilities Act, for the transportation of passengers between the intersection of E. Fremont and Sargent Streets and the intersection of Broadway and E. Miner Avenue and intermediate points via E. Fremont, Shasta Avenue, E. Miner Avenue, Broadway and E. Fremont Street to point of origin, as an extension and enlargement of the operative right created by Decision No. 36715, dated November 23, 1943, subject to the following restriction and condition:

- (a) Passengers having their point of origin and destination within the area bounded by Hunter Square in the city of Stockton and the intersection of Locust Street (if prolonged) and E. Fremont Street on either incoming or outgoing travel shall not be transported.
- (b) The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Eskdale Newton, 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 in the operation of said passenger stage service Eskdale Newton shall comply with and observe the following service regulations:

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 one (1) day's notice to the Commission and the public.
- 3. Subject to the authority of this Commission to change or modify it at any time by further order applicant shall conduct operations, pursuant to the certificate herein granted, over and along the following route:

Beginning at the intersection of E. Fremont Street and Sargent Avenue, thence proceeding easterly on E. Fremont Street to Shasta Avenue, thence southerly on Shasta Avenue to E. Miner Avenue, thence easterly on E. Miner Avenue to Broadway, thence northerly on Broadway to E. Fremont Street, the easterly terminus of the line; thence westerly on E. Fremont Street to Sargent Avenue, the point of origin.

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

Dated at San Francisco, California, this 7<sup>th</sup> day of March, 1944.

Richard Sadse  
Justus F. Quisenberry  
Francis D. Havens  
Thomas Olin  
James F. Powell  
 - COMMISSIONERS