

ORIGINAL

Decision No. 37279

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of F. M. SNELL, doing business under the fictitious firm name and style of San Bernardino-Highland-Patton Motor Coach Line, to sell, and AIR SERVICE TRANSIT, INC., a corporation, to purchase, a passenger stage line operated between San Bernardino and East Highlands, California;

AIR SERVICE TRANSIT, INC., a corporation, to issue securities;

AIR SERVICE TRANSIT, INC., a corporation, for a certificate of public convenience and necessity;

F. M. SNELL, doing business under the fictitious firm name and style of San Bernardino-Highland-Patton Motor Coach Line; AIR SERVICE TRANSIT, INC., a corporation; and SAN BERNARDINO VALLEY TRANSIT COMPANY, a corporation, for authority to execute transfer agreements;

AIR SERVICE TRANSIT, INC., a corporation, and SAN BERNARDINO VALLEY TRANSIT COMPANY, a corporation, for authority to execute operating agreement;

AIR SERVICE TRANSIT, INC., a corporation, for directions with respect to accounting practices.

Application No. 26157

WILLIAM GUTHRIE, for Air Service Transit, Inc.

F. M. SNELL, in propria persona.

W. C. SECCOMBE, Mayor of San Bernardino, Interested Party.

COLONEL S. S. WINSLOW and CAPTAIN W. D. HANSON, for San Bernardino Army Air Depot, Interested Party.

A. W. POOLE, for San Bernardino Chamber of Commerce, Interested Party.

CRAEMER, Commissioner:

O P I N I O N

In the main, this application deals with the matter of revising and improving the passenger stage service between San Bernardino and the San Bernardino Army Air Depot which is located some three miles east of the business center of the city.

A public hearing was conducted in this proceeding at San Bernardino, June 1, 1944, and it is now ready for decision.

There are a number of agencies involved in this proceeding; for convenience, they will hereinafter sometimes be referred to as shown in the margin. (1)

The application sets forth six specific items for determination, each of which constitutes a part of the proposed revised general transportation plan to serve the Depot located to the south of Third Street and east of Tippecanoe Street, as well as the Troop Training Area located about one-half mile north of the Depot and east of Victoria Avenue.

The Depot is now served by both Snell and the Valley Transit. Under the proposed plan Snell will sell his operative right over Third Street, which now serve the Depot and East Highland, and that portion of his equipment used in this operation to Air Service, which was recently incorporated to conduct a transportation service in the San Bernardino Area. Thereafter, it is

(1) For convenience F. M. Snell, doing business under the fictitious firm name and style of San Bernardino-Highland-Patton Motor Coach Line, will sometimes be referred to as Snell; Air Service Transit, Inc., as Air Service; San Bernardino Valley Transit Company, as Valley Transit; Gladys Porter and Elizabeth M. Schilling, doing business under the firm name and style of Gate City Bus Line, as Gate City; and, San Bernardino Army Air Depot, as Depot.

proposed to serve the Depot through a joint operation between the Air Service and Valley Transit, both of which are under the same management and control.

The purchase price of the Snell interest is \$27,500, segregated as follows:

Operative rights (as authorized by Dec. No. 34800)	\$ 50.00
Good Will and going concern	10,110.46
Equipment (5 buses and 1 bus trailer and tractor)	<u>17,339.54</u>
Total	\$27,500.00

Exhibit No. 3, prepared by Benn W. Porter, associate engineer of the Commission's staff, shows the estimated present day replacement cost of the equipment proposed to be transferred to be \$17,000.

Air Service has agreed to pay for the properties \$27,500. The original plan of financing this transfer was modified in an amended application to provide that \$14,000 is payable in cash, the balance of \$13,500 is to be represented by two promissory notes payable to F. M. Snell. One note for the principal sum of \$10,000, without interest, is payable in 11 equal monthly installments, the last installment to become due and payable 11 months after the date of such note. The other note for \$3,500, without interest, is payable 24 months after date. Air Service needs no authority from this Commission to issue the \$10,000 note. The issue of the \$3,500 note will be authorized by the Order herein.

Air Service asks permission to issue and sell 20 shares of its common capital stock at \$100 per share and to issue to the American National Bank of San Bernardino its note in the principal sum of \$12,000 secured by a chattel mortgage. The note to the American National Bank of San Bernardino is payable in 24 monthly installments with interest at the rate of 6% per annum. The \$14,000 which Air Service will obtain through the issue of the stock and the note to the American National Bank of San Bernardino will be paid to F. M. Snell as the initial cash payment on the purchase price of his properties.

Mr. Snell testified that gross revenue for the year 1943, received from the operation of the Third Street line involved in the transfer proposed herein, was approximately \$50,000 and the operating expenses \$41,000, leaving an operating income of \$9,000. This service as it is now conducted was first operated in February, 1942 and has shown a continued increase in business since its inception. Mr. Snell further testified that, in his opinion, the property and rights proposed to be transferred were worth much more than the agreed price of \$27,500 but he was willing to accept this amount primarily for the reason that his son, whom he depended upon to handle the detail of the office and operations, had joined the armed forces which left him with more work than he could handle by himself.

Mr. Guthrie, president of Air Transit, Inc., testified he had checked Mr. Snell's estimate of operating income and reached the conclusion that under unified operation the amount of the operating income would be materially increased.

Under the proposed coordinated plan of operation the Air Service proposes to adopt the present fare structure of the Valley Transit to the effect that the fare between San Bernardino and the Depot, on the lines of both the Valley Transit and Air Service, will be as follows:

Cash fare	6 cents
Commutation tickets in lieu of 6¢ cash (20 for \$1.00)	5 "
Commutation tickets in lieu of 10¢ cash (10 for 90¢)	9 "

These fares include a free zone transfer between Snell, Air Service, Valley Transit and Gate City. This transfer arrangement affords the passenger the privilege of using the lines of two carriers, in traveling in the same general direction, within a single zone,

upon the payment of one fare. The proposed rate structure involves an increase of 1 cent in the cash fare to that portion of the public now traveling on the Snell line, between the business center of San Bernardino and the first gate of the Depot near Tippecanoe Street. This cash fare is now 5 cents and under the proposed plan it will be 6 cents. Such passengers, under the proposed plan, can avail themselves of a 5-cent ride through the purchase of tickets.

Mr. Glasscock, president of Valley Transit, testified that the representative of the Office of Defense Transportation, stationed at Los Angeles, had considered the proposed plan of a consolidated operation between the lines of the Valley Transit and Air Service and was in favor of this program in the interest of making greater use of the available facilities, and providing an improved service through coordinated operation. Mr. Glasscock estimated that, on the average, 780 passengers will have their fare increased 1 cent per day which will amount to \$7.80, as contrasted with 556 passengers who will be relieved of paying a second 6-cent fare which will amount to a saving of \$33.36 per day.

The proposed one-half mile extension along Victoria Avenue to the north of Third Street is to serve the so-called Troop Training Area where a substantial number of army men are now stationed. There is no public transportation to this area.

Mayor Seccombe of the city of San Bernardino testified in support of the granting of this application. He expressed the view that the proposed plan is a step toward a consolidated local transportation service for the city and adjacent territory which was very desirable from a public standpoint, and that the one cent increase in the cash fare to that small portion of the public

traveling between downtown San Bernardino and the first gate of the Army Air Depot is more than offset by the transfer privilege afforded the general public, with the attending substantial reduction in fares. He also expressed the view that the consolidated plan of operation would result in a more efficient and better service to the public, in that the headway of the two systems could be adjusted on a unified basis as compared with an operation where two competing carriers have no such arrangement, which results in considerable wasteful duplication.

Mr. A. W. Poole, representing the San Bernardino Chamber of Commerce with a membership of some six hundred, testified that the membership favored the granting of the application largely for the reasons pointed out by the Mayor.

Captain W. D. Hanson, Chief of the Traffic Section of the Army Air Depot, testified that it was his responsibility to study the transportation requirements for the Depot which he had done, and, after some negotiations and understandings with the management of the parties involved, had reached the conclusion that the proposed plan of operation should result in a material improvement in the service. Therefore, he supported the granting of the application. He also commented on the advantage of the transfer arrangement as a step toward a unified service for the area and, particularly, traffic to the Depot. He is now negotiating a revised plan of bus operation within the Depot grounds which will carry the riders nearer their place of employment.

Under the proposed consolidated plan of operation there will be available the following equipment:

Valley Transit

19 buses now in service

3 buses not now in an operating condition

Air Service

5 buses in serviceable condition

1 tractor and trailer

A review of this record leads to the conclusion that it is in the public interest to authorize the transfer proposed herein from the standpoint of service and efficient operation.

Applicant, Air Service, requests the Commission to prescribe a period of time in which to amortize the investment involved herein. The record shows that the age of the equipment proposed to be transferred varies from two to nine years; three pieces were purchased in 1942, one in 1939 (secondhand) and two in 1935 (secondhand). In view of the fact the operation involved is more or less of a special service to the Depot, the patronage of which will undoubtedly materially decrease or disappear with the curtailment or discontinuance of activities at the Depot, and the further fact that this operation will be conducted under prevailing conditions with the attending heavy loads and war-time standard of maintenance, it appears reasonable, to authorize applicant, to depreciate the "wearing value" of this equipment purchased over a reasonably short period of time, to the effect that such equipment purchased in 1935 and 1939 may be depreciated over a period of two years and the equipment purchased in 1942 may be depreciated over a period of three years from the date of this order.

If Air Service pays F. M. Snell more than \$17,500 for the properties and operative rights and business to which reference is made in this opinion, it must charge the amount in excess of such payment to Account 109. Other Debit Accounts, and amortize

said amount within three years after the date hereof by charges to Account 315, Miscellaneous Charges to Income.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Air Service Transit, Inc. is hereby 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

Public hearing on the above-entitled application having been had and based upon the record and findings contained in the foregoing opinion,

IT IS ORDERED:

(1) That F. M. Snell, an individual, may on or before October 1, 1944 transfer to Air Service Transit, Inc., a corporation, and the latter may acquire the certificate of public convenience and necessity granted to said Snell under the authority of Decision No. 34800, dated December 2, 1941, in Application No. 24579, together with auto stage equipment and other properties described in Exhibit No. "B" attached to the application.

(2) That a certificate of public convenience and necessity is hereby granted Air Service Transit, Inc., a corporation, authorizing the establishment and operation of service as

a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, for the transportation of passengers over and along Victoria Avenue, in East San Bernardino, between the intersection of East Third Street and Victoria Avenue and the Troop Training Area entrance gate which is located at a point approximately one-half mile north of Third Street. Such certificate is to be consolidated with the operative right granted to Air Service Transit, Inc. in paragraph (1) above.

(3) That Air Service Transit, Inc., San Bernardino Valley Transit Company, Gladys Porter and Elizabeth M. Schilling, are authorized to enter into the transfer arrangement as outlined in Exhibits Nos. "F" and "G," attached to the application.

(4) That Air Service Transit, Inc. and San Bernardino Valley Transit Company are authorized to enter into the operating agreement as set forth in Exhibit No. "H," attached to the application.

(5) That in providing service pursuant to the authority herein granted, the parties shall comply with and observe the following service regulations:

- (a) Applicant Air Service Transit, Inc. 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.
- (b) Applicants 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 tables 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. Said tariffs shall contain rates as set forth in Exhibit No. "E," attached to the application.

- (c) Applicants Snell and Air Service shall notify this Commission within ten (10) days of the actual date of the transfer.

The Commission is of the opinion that the money, property or labor to be procured or paid for by Air Service Transit, Inc. through the issue of the stock and notes herein authorized is reasonably necessary by Air Service Transit, Inc. for the purposes herein stated; that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS FURTHER ORDERED:

(6) That Air Service Transit, Inc. be and it hereby is authorized to issue, after the effective date hereof and on or before November 1, 1944, at not less than the par value thereof, twenty shares of its common capital stock and use the proceeds to pay in part for the properties which it has agreed to purchase from F. M. Snell.

(7) That Air Service Transit, Inc. be and it hereby is authorized to issue, after the effective date hereof and on or before November 1, 1944, to American National Bank of San Bernardino, its promissory note in the amount of not exceeding \$12,000 and secure the payment of said note by the execution of a chattel mortgage said note and said chattel mortgage to be in substantially the same form as the note and chattel mortgage on file in this application as Exhibit No. "C." Said Air Service Transit, Inc. shall use the proceeds realized through the issue of said note to pay in part for the properties which it is acquiring from F. M. Snell.

(8) That Air Service Transit, Inc. be and it hereby is authorized to issue to F. M. Snell its promissory, non-interest bearing note in the amount of \$3,500 as part payment for the properties which it has agreed to acquire from F. M. Snell.

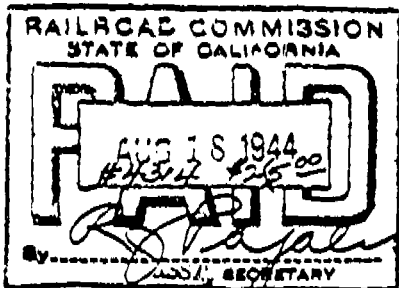
(9) That if Air Service Transit, Inc. acquires said properties from F. M. Snell at a cost in excess of \$17,500, it shall charge such excess purchase price to Account 109, Other Debit Accounts, and amortize the same within three years after the date hereof by charges to Account 315, Miscellaneous Charges to Income.

(10) That Air Service Transit, Inc. is authorized to depreciate the "wearing value" of the equipment involved in the transfer authorized herein in accordance with the schedule set forth in the foregoing opinion.

(11) That the authority herein granted will become effective when Air Service Transit, Inc. has paid the fee required by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25) Dollars.

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.

Dated at Los Angeles, California, this 16th day of August, 1944.



Richard Lachse
Justus F. Calmer
Frank C. Havens
James A. ...
Frank ...