

ORIGINAL

Decision No. 37476

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of STOCKTON CITY LINES,)
 INC. for a certificate of public convenience and)
 necessity to operate motor coach service along)
 Washington Street and Jacobs Road, between the)
 intersection of Washington and Harbor Streets at)
 the City Limits of Stockton, and the terminal at)
 U. S. Navy Supply Depot on Rough and Ready Island)
 in the County of San Joaquin; and for authority to)
 operate over an alternate and longer route if pre-)
 vented from traversing Washington Street through)
 U. S. Army's Ordnance Depot, over routes described)
 herein.)

Application
No. 26273

In the Matter of the Application of WILLIAM C.)
 COLBERG and H. J. COLBERG, a co-partnership, dba)
 CENTRAL TRANSIT CO., and ESKDALE NEWTON, dba NEWTON)
 PASSENGER TRANSPORTATION CO., for an order author-)
 izing them to consolidate their operations.)

Application
No. 26383

GILBERT L. JONES, for Stockton City Lines, Inc., Applicant
in Application No. 26273

NEUMILLER & DITZ, by GEO. A. DITZ and REGINALD L. VAUGHAN,
for William C. Colberg and H. J. Colberg,
a copartnership, dba Central Transit Co.,
and Eskdale Newton, dba Newton Passenger
Transportation Co., Applicants in Application
No. 26383

JOSEPH C. TOPE, City Attorney, Stockton, for City of Stockton

LT. COMDR. W. D. SEDGWICK, U.S. Navy, representing Commander
V.A.A. Powell, Officer in Charge of Con-
struction, Oakland Annex, Naval Supply Depot,
Stockton.

LT. COMDR. ARTHUR C. JENKINS, Domestic Transportation Officer,
Twelfth Naval District, representing the
Commandant, Twelfth Naval District.

BY THE COMMISSION:

O P I N I O N

In Application No. 26273 and supplement thereto, Stockton
City Lines, Inc. (1) seeks a certificate of public convenience and
necessity to extend its passenger stage service to Rough and Ready
Island in order to serve the needs of a large naval base which will
soon be ready to be commissioned.

(1) Hereinafter referred to as City Lines.

In Application No. 26383 Wm. C. Colberg and H. J. Colberg, a copartnership, dba Central Transit Company, (2) and Eskdale Newton, dba Newton Passenger Transportation Company, (3) seek an order authorizing the consolidation of their operations and approval of an agreement entered into between said parties for the purpose of performing local transportation service between Rough and Ready Island and the city of Stockton and certain areas to the northeast of the Stockton city limits.

A public hearing was held in these matters in Stockton on October 31, 1944, before Examiner Hall, on a consolidated record, at which time the matters were submitted.

City Lines proposed service is as follows:

1. Commencing at a loop in the city of Stockton around the block bounded by Hunter, Main, San Joaquin, and Market Streets, thence west along the presently certificated route on Market Street to Lincoln, south on Lincoln Street to Washington Street, thence west along Washington Street to Harbor Street, thence via a proposed extension along Washington Street and Jacobs Road to the terminal at the Navy Supply Depot on Rough and Ready Island, and return over the same route, a one-way distance of approximately 4 miles.

This route traverses through the Stockton Ordnance Depot of the U. S. Army.

If permission cannot be secured to operate through said Stockton Ordnance Depot, applicant proposes the following alternate route:

2. Commencing at a loop in the city of Stockton around the block bounded by Hunter, Main, Market, and San Joaquin Streets, thence over the present certificated route along San Joaquin Street to Charter Way, thence over the proposed extension west on Charter Way to and through the city limits of Stockton on Charter Way, Maronge Road, and State Highway Route No. 4 to Daggett Road, thence north along Daggett Road to Jacobs Road, thence east along Jacobs Road to the terminal at the Navy Supply Depot on Rough and Ready Island, returning over the same route, the one-way distance being approximately 6 miles.

(2) Hereinafter referred to as Colberg.
(3) Hereinafter referred to as Newton.

In its supplemental application City Lines proposes:

3. To extend its Poplar Street line north of the Stockton Channel along Monte Diablo Avenue to a proposed Navy boat landing at Louis Park. Furthermore, it proposes to extend a line northerly through Louis Park to North Drive, thence southerly along Occidental Avenue to the present end of its Poplar Street route.

At the hearing, however, due to objections of the city regarding a route through Louis Park, the application was amended on the record to operate north and south on Occidental Avenue between Monte Diablo Avenue and North Drive.

The Navy Department is now arranging to establish a ferry operation by boats having a capacity of approximately 100 passengers between the boat landing on Rough and Ready Island across the Stockton Channel to a boat landing in the vicinity of Louis Park, in order that workers on Rough and Ready Island, living in housing projects to the north of Stockton Channel, as well as those using the Poplar Street route of City Lines, might have access to Rough and Ready Island. For such a boat service no charge would be made to passengers.

City Lines proposes a 10-cent fare to and from Rough and Ready Island with transfer privileges to the remainder of its system by its proposed routes south of Stockton Channel, whereas via the Poplar Street route it proposes the city-wide fare of 7 cents cash or ~~6~~ token with transfer privileges to the remainder of its 7-cent area which comprises all of its lines within the corporate limits of Stockton.

City Lines alleges that it can extend its Poplar Street route without adding any equipment as the current of travel to Rough and Ready Island will be in the opposite direction from that to the business center of Stockton during the peak periods. By the use of either of its two lines south of the Stockton Channel additional equipment would be necessary, which it alleges it has or can secure from its affiliated companies.

The witness for City Lines testified that the three routes proposed would require approximately the following additional miles to be operated:

Route 1 - (Via Washington Street) - 500 miles per day.

Route 2 - (Via State Route No. 4 and Daggett Road)
1,200 miles per day.

Route 3 - (Extension of Poplar Street Line) - 100 miles per day.

Colberg has a certificate of public convenience and necessity to operate between Stockton and Brentwood and intermediate points, including Byron. The certificated route of such operation is through the Stockton Ordnance Depot and Rough and Ready Island via Washington Street and Jacobs Road (generally known as the old Borden Road). In addition it has a certificate to operate between Stockton and Terminus, the route of which is not involved herein.

Newton operates passenger stage service between the center of Stockton and areas to the east of Stockton in the vicinity and east of the city limits of Stockton, with certain restrictions with respect to the carriage of passengers within the city. Both Colberg and Newton have their Stockton terminus at Hunter Square. (4)

Application No. 26383 proposes to join the service of Colberg and Newton and operate through buses from Rough and Ready Island into the territory served by Newton. The contract between them proposes that Newton shall furnish all of the buses required for the Rough and Ready Island service and take the entire responsibility of such a service, with a through fare of 10 cents over the combined routes of Colberg and Newton east of Rough and Ready Island. Colberg is to participate in 50 per cent of the net earnings. In other words, this proposal would result in a service by Newton over a regular route and between fixed terminals, for which he has no certificate.

(4) Hunter Square is a parking area on the west side of Hunter Street between Weber Avenue and Main Street, Stockton.

Mr. Newton testified that he proposed to operate a 15-minute headway from 6:00 a.m. to 12 midnight. The distance from Hunter Square to Rough and Ready Island is approximately $3\frac{1}{2}$ miles, therefore the daily bus miles proposed by Newton between these points would be in excess of 500 miles.

Since December 1941, when the Stockton Ordnance Depot was established, Colberg has not followed his certificated route due to the closing of the Stockton Ordnance Depot to outside traffic. In lieu thereof, when operating to Brentwood and Byron, Colberg has operated along Marengo Road and State Highway Route No. 4 (which is generally known as the new Borden Road). By this operation since December 1941 Colberg has not operated across Rough and Ready Island although he could have reached Rough and Ready Island by using the Daggett Road. This change in route was made in accordance with the provisions of this Commission's emergency resolution EMT No. 1, although no notice was given the Commission within ten days after the inauguration of this route, as provided by said resolution.

Lt. Comdr. Jenkins, representative of the Twelfth Naval District, testified that a large naval supply depot is being constructed on Rough and Ready Island, which it is expected will be commissioned about the first of next year; that during the construction work quite a sizable force is employed, some of whom are in need of public transportation; that in order to facilitate the movement of employees from the areas north of Stockton Channel, plans are under way for the establishment of ferry service across Stockton Channel from Rough and Ready Island to a point at Louis Park; that a housing project is to be built just north of Smith's Canal opposite the north end of Occidental Avenue and a foot bridge built over this canal so that employees may reach the ferry by walking across the easterly end of Louis Park. He pointed out that no fares would be charged for

this ferry. It also was his opinion that common carrier service was required both on the north side and south side of the Stockton Channel to properly take care of both uniformed and civilian employees, and it was the Navy's desire that service be established at as early a date as possible.

At the present time the number of permanent employees at the Naval Depot is unknown; however, it was estimated that in all probability there would be about 3,000. With the exception of 10 or 15 per cent, all of these workers are expected to travel by automobile on the share-the-ride plan. The remaining 500 to 450 are expected to use common carrier service, and it is probable that about half of these would go to the north part of Stockton and half to the south.

The extension of the Poplar Street line of the City Lines in connection with the Navy ferry would be of particular advantage to those going to the north. To the south, however, assuming both applications were granted, the City Lines' route would distribute to a much larger territory than the Colberg-Newton route.

Commencing on Monday, October 30, 1944, the day prior to the hearing, Colberg started running his regular Stockton-Brentwood-Byron service via his regular certificated route through the Stockton Ordnance Depot and Rough and Ready Island, and in addition rented one bus from Newton and operated a tripper service between Hunter Square and Rough and Ready Island. During the early part of the day Newton and Colberg exchanged transfers in order that a passenger could ride for a 10-cent fare between points served both by Colberg and by Newton. On advice of counsel this was stopped at about noon of that day. At the hearing inquiry was made of both Colberg and Newton as to who gave instructions to issue these transfers in violation of filed tariffs. Both disclaimed responsibility for issuing these orders and were unable to account for the starting of this practice. It would appear that the management of both these companies was lax

in not knowing what their operators were doing in connection with this interchange of transfers.

The record clearly indicates that the proposals of City Lines would provide service between Rough and Ready Island and all portions of Stockton by its city-wide system, whereas the proposals of Colberg and Newton, if granted, would serve only a small portion of the city and its environs.

The record does not justify granting both applications.

It is clear that the Navy needs a city-wide service for use of its personnel, and the proposals of City Lines only will provide such a service, therefore Application No. 26273 will be granted and Application No. 26383 will be denied.

City Lines 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 granting 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

A public hearing having been held and the matters being under submission;

IT IS HEREBY ORDERED that:

I. A certificate of public convenience and necessity be and it is hereby granted to Stockton City Lines, Inc. for the operation of

an automotive passenger stage service for the transportation of passengers between Stockton and Rough and Ready Island, San Joaquin County, and between Stockton and a point in San Joaquin County on the north bank of Stockton Channel opposite Rough and Ready Island, to be consolidated with the remainder of its operative rights, subject to the following conditions:

- (1) Written acceptance of the certificate herein granted shall be filed within a period of not to exceed thirty (30) days from the date hereof.
- (2) Said service shall commence within a period of not to exceed sixty (60) days from the effective date hereof and upon not less than five (5) days' notice to this Commission and the public.

II. Stockton City Lines, Inc. shall perform the said passenger stage service authorized under Section I above in compliance with the following service regulations:

1. A tariff or tariffs and time tables shall be filed in triplicate and concurrently made effective on not less than five (5) days' notice to this Commission and the public in accordance with the requirements of the Commission's General Orders, and containing rates, rules, and regulations which in volume and effect shall be identical with those set forth in Application No. 26273, or rates, rules, and regulations satisfactory to the Commission.
2. Subject to the authority of this Commission to change or modify such at any time by further order, Stockton City Lines, Inc. shall conduct said passenger stage operations upon and along the following routes:
 - (a) Commencing at the intersection of Washington Street and Harbor Street at the westerly city limits of the City of Stockton; thence continuing westerly in the County of San Joaquin along Washington Street and Jacobs Road to the terminal at the Navy Supply Depot on Rough and Ready Island, and return over the same route.
 - (b) As an alternate to Route (a), if permission cannot be received to operate through the United States Army Ordnance Depot:

Commencing at the intersection of San Joaquin Street and Charter Way, thence along Charter Way to the westerly city limits of Stockton, thence in San Joaquin County westerly along Charter Way, Marengo Road, and State Highway Route No. 4 to Daggett Road, thence north along Daggett Road to Jacobs Road, thence east along Jacobs Road to the terminal of the Navy Supply Depot on Rough and Ready Island, and return over the same route.

- (c) Commencing at the westerly terminal of Stockton City Lines, Inc. Poplar Street No. 3 motor coach line at the intersection of Monte Diablo and Occidental Avenues, thence west on Monte Diablo Avenue to proposed Navy boat landing near Louis Park and return over the same route, and commencing at the intersection of Monte Diablo and Occidental Avenues, thence north along Occidental Avenue to North Drive, and return via the same route.

The complete operating routes between the center of the city of Stockton and Rough and Ready Island are described in Appendix "A" attached hereto.

3. Stockton City Lines, Inc. is authorized to turn its motor vehicles at terminal or intermediate points either in the intersection of the streets or by operating around a block contiguous to such intersection in any direction.

III. Application No. 26383 is hereby denied.

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

Dated at San Francisco, California, this 21st day of November, 1944.

Justus J. Quisenberry
Francis R. Havens
Frank C. Chase
Commissioners

APPENDIX "A"

Description of operating routes:

A - Naval Supply Depot - Stockton Route No. 9.

Commencing with a loop in the City of Stockton around a block bounded by Hunter, Main, San Joaquin and Market Streets; thence over a presently certificated route west along Market Street to Lincoln Street; south along Lincoln Street to Washington Street; west along Washington Street to the westerly limits of the City of Stockton at Harbor Street; thence continuing westerly in the County along Washington Street and Jacobs Road to the terminal at the Navy Supply Depot on Rough and Ready Island, and return over same route.

B - Alternate Naval Supply Depot - Stockton Route No. 9.

Commencing with a loop in the City of Stockton around a block bounded by Hunter, Main, San Joaquin and Market Streets; thence over a presently certificated route south along San Joaquin Street to Charter Way; thence west on Charter Way to Lincoln Street; thence continuing west along Charter to westerly limits of Stockton and continuing along Charter Way in the County of San Joaquin to Fresno Street; thence continuing westerly in the County along Charter Way, Marengo Road and State Highway Route No. 4 to Daggett Road; thence north along Daggett Road to Jacobs Road; thence east along Jacobs Road to the terminal at the Navy Supply Depot on Rough and Ready Island, and return over same route.