

Decision No. 37478

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MARY MARITZEN and E. B. OSTHUES, a co-)
partnership, doing business under the)
firm name and style of THE MODESTO)
TRANSIT COMPANY, for a certificate of)
public convenience and necessity to)
operate bus service as a common carrier)
of passengers, baggage and express)
between the City of Modesto, Stanislaus)
County, California and South Modesto)
Acres in Stanislaus County, California;)
and all intermediate points.)

ORIGINAL

Application No. 26364

BY THE COMMISSION:

O P I N I O N

In this proceeding, Mary Maritzen and E. B. Osthues, partners doing business as The Modesto Transit Company, seek a certificate of public convenience and necessity under Section 50½, Public Utilities Act, authorizing the operation of a passenger stage service for the transportation of passengers, baggage and express between Modesto and South Modesto Acres, and intermediate points.

South Modesto Acres is a suburban settlement, having a population, so applicants allege, of approximately 3,000, and is situated some 3½ miles southwest of Modesto, in Stanislaus County. The business, banking and shopping center of this district is Modesto, where the majority of its inhabitants are employed. They also are dependent upon medical and dental services at Modesto.

Between Modesto and South Modesto Acres, no public transportation service now exists. For this reason, it is alleged,

the residents of the district have suffered considerable hardship and inconvenience. Applicants, so they state, frequently have been requested to establish such a service.

To provide the service, applicants, at the outset, would use one 22-passenger, rebuilt 1938 Dodge bus. They now are negotiating for the purchase of a new Dodge or Studebaker 29-passenger bus. Daily between 6:40 A.M. and 11:40 P.M., the service would be operated under a forty-minute headway. A single one-way fare of five cents per passenger is proposed.

There appears to be a public need for the service which applicants propose to establish. As stated, no other common carrier would be affected. Accordingly, the application will be granted. This is not a matter requiring a public hearing.

Mary Maritzen and E. B. Osthues are 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

Application having been made as above entitled, and the Commission now finding that public convenience and necessity

so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Mary Maritzen and E. B. Osthuus, partners doing business as The Modesto Transit Company, authorizing the establishment and operation of a service as a passenger stage corporation, as defined by Section 2 $\frac{1}{2}$, Public Utilities Act, for the transportation of passengers, baggage and express between Modesto and South Modesto Acres, situated in Stanislaus County approximately 3 $\frac{1}{2}$ miles southwest of Modesto, and intermediate points. Said service shall be consolidated with the passenger stage operations now conducted by applicants. Shipments of express shall be limited to those not exceeding one hundred pounds each in weight, and they shall be carried on passenger vehicles only.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

1. Applicants 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. 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, appropriate tariffs and time schedules 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 the Commission to change or modify them by further order, applicants shall conduct operations, pursuant to the certificate herein granted, over and along the following routes:

OUTBOUND - Starting at 12th and Eye Streets; thence south on 12th Street to H Street; thence west on H Street to 7th Street, also known as Old Highway 99; thence south on Old Highway 99 to Boulder Avenue; thence south on Boulder Avenue to Hatch Road; thence west on Hatch Road to Crows Landing Road; thence south on Crows Landing Road to Third Avenue; thence west on Third Avenue to Seattle Avenue.

INBOUND - Starting at Seattle and Third Avenues; thence north on Seattle Avenue to Second Avenue; thence east on Second Avenue to Crows Landing Road; thence north on Crows Landing Road to Rio Grande Avenue; thence east on Rio Grande Avenue to Santa Fe Avenue; thence north on Santa Fe Avenue to Broadway Avenue; thence east on Broadway Avenue to Alamo Avenue; thence north on Alamo Avenue to El Paso Avenue; thence east on El Paso Avenue to Boulder Avenue; thence north on Boulder Avenue to Old Highway 99; thence north on Old Highway 99 to Eye Street; thence east on Eye Street to 12th Street.

The effective date of this order shall be the date hereof

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

Justin F. Calver
Francis D. Havenner
James W. [unclear]

COMMISSIONERS