

Decision No. 37552

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of )  
GIBSON LINES, a corporation, for an ) Application No. 26210  
order authorizing the use of alter- )  
nate routes in South Marysville and )  
Olivehurst District. )

REGINALD L. VAUGHAN and JOHN M. WELSH, by  
REGINALD L. VAUGHAN, for applicant.

WESTERN PACIFIC RAILROAD COMPANY, by JOHN  
E. HENNESSY, interested party.

NORMAN L. ROBOTHAM, protestant.

BY THE COMMISSION:

O P I N I O N

Gibson Lines, a corporation, in this proceeding requests the Commission to authorize it to use additional routes near Marysville in order to provide a local service, urban in character, between Marysville, South Marysville, Olivehurst and Camp Beale. The plan contemplates the use of certain short additional routes in the vicinity of South Marysville and Olivehurst to connect its present through routes. South Marysville and Olivehurst are unincorporated residential suburbs of Marysville. A public hearing was had before Examiner Paul at Marysville on October 25, 1944, and the matter was submitted.

Gibson Lines now provides a passenger stage service in general between the termini of Chico, San Francisco, Stockton and Folsom, subject to certain limitations, via Marysville, Sacramento and other intermediate points. Between Marysville and Sacramento service is provided over three different routes, two of which are

affected by its proposal. Service is also provided to and from Camp Beale.

Between Marysville and Camp Beale no routes have been defined by the Commission, but it was shown that in conducting this service, applicant uses U. S. Highway 99E with diversions therefrom over Camp Beale Boulevard, Hammonton Road and Spenceville Road. One of the routes between Marysville and Sacramento is over U. S. Highway 99E. The other route, in so far as it affects this proceeding, leaves Marysville over U. S. Highway 99E to its junction with Riverside Avenue, thence along Riverside Avenue, Garden Avenue, Feather River Road and Feather River Boulevard continuing to Sacramento via Rio Oso.

To carry into effect its proposal, applicant requests authority to operate (1) over Feather River Road between its intersection with Garden Avenue and U. S. Highway 99E; (2) over South Willow Road between its intersection with Feather River Road and the Marysville Airport; and (3) over a route beginning at the junction of U. S. Highway 99E and Olivehurst Avenue, thence over Olivehurst Avenue and 7th Avenue to its junction with U. S. Highway 99E. Applicant also asks authority to operate over certain so-called "alternate" routes, (a) beginning at the intersection of Garden Avenue and Riverside Avenue, thence along Riverside Avenue and Willow Avenue to its intersection with Feather River Road; and (b) beginning at the intersection of U. S. Highway 99E and Pasado Avenue, thence along Pasado Avenue, Arboga Avenue and 7th Avenue to its intersection with Olivehurst Avenue.

Between Olivehurst and South Marysville, on the one hand, and Marysville and Yuba City the local fare would be 10-cents and

15-cents, respectively. Between Olivehurst and South Marysville, on the one hand, and Camp Beale, on the other hand, the fare would be 25-cents. Olivehurst and South Marysville would be served by six daily round trip schedules, three of which are now operating between Yuba City, Marysville and Camp Beale and the other three between Yuba City, Marysville and Sacramento, via Wheatland. The three schedules operating between Yuba City and Camp Beale travel southeasterly over U. S. Highway 99E to its intersection with 7th Avenue at Olivehurst. At this point these schedules turn around and travel over U. S. Highway 99E to Spenceville Road, thence to Camp Beale. These schedules are operated to provide service for civilians employed at Camp Beale.

A number of public witnesses residing in the Olivehurst area testified in support of applicant's request for authority to serve this district. It appears from their testimony that this district is situated about three miles southeasterly of Marysville along the westerly side of U. S. Highway 99E. Its population was estimated to be about 5,000. The approximate center of this district at 7th Avenue and Olivehurst Avenue is about one-half mile from U. S. Highway 99E. This testimony was to the effect that there is a public need for a more adequate service between Olivehurst and Camp Beale for civilian workers. Some witnesses testified that they were in favor of or needed the proposed improved service between Olivehurst and Marysville. It was stated that use of applicant's present service over the main highway makes it necessary for some of the residents to walk distances varying from a few blocks to about one mile which would be reduced to less than one-half mile under applicant's proposal.

In support of applicant's request to operate over Feather River Road between Carden Avenue and U. S. Highway 99E, evidence was introduced to show the use of this route would enable applicant to better serve the area along Carden Avenue in connection with its operation between Marysville and Camp Beale. This area is generally referred to as South Marysville. It was shown that some of the residents of South Marysville are also employed at Camp Beale as civilian workers. Applicant has had requests from the military authorities at Camp Beale to provide an improved service for these workers.

Applicant's proposal to extend its service along South Willow Avenue to the Marysville Airport is designed principally to serve the Airport where a substantial number of men had at one time been employed. However, there is very little activity at the Airport now. Testimony indicated that this field is presently used as a landing field in connection with training of fliers stationed at other fields. Only one public witness testified in support of applicant's proposal to operate over South Willow Avenue. He stated that he lives on South Willow Avenue, less than 1,200 feet from applicant's route over Feather River Road. From his testimony it appears that the entrance to the Airport is less than one-half mile from Feather River Road.

Applicant contended that its proposal to use the so-called alternate routes, referred to as the Willow Avenue route and the Arboga Road route, would facilitate and render more flexible its operations over the regular routes above discussed. It proposes to use these alternate routes entirely at its own discretion and subject to its own judgment as to the public need for operation

thereover. The record shows that Willow Avenue is an unpaved dirt road and in poor condition. It was not shown that anyone residing along this route would use applicant's service. Similarly, the record shows that there are no residents along Arboga Road. The use of Arboga Road would require two crossings of the Western Pacific Railroad at grade.

Western Pacific Railroad Company opposed the granting of the application only in so far as applicant proposed to use a road passing under a trestle of the railroad on Pasado Avenue. There was considerable discussion as to whether the road under this trestle was a public highway or the private property of the Railroad. During the hearing applicant amended its application by withdrawing its proposal to operate over Pasado Avenue under the trestle, whereupon Western Pacific Railroad withdrew its opposition.

The only passenger stage service provided by Norman L. Robotham, the other protestant herein, is a local service between Marysville and Yuba City. This service is designed to serve the local needs of the public in these cities. The basis of his opposition to applicant's proposal is the fear that, if it is authorized, applicant will establish a high frequency service on which it would provide a local service between Marysville and Yuba City in direct competition with this protestant. The fare between all points on his line is 5-cents. Gibson Lines' fare between Marysville and Yuba City is 10-cents. We believe the apprehension of protestant in this regard has no foundation inasmuch as applicant may not provide a local service between Yuba City and

(1)  
Marysville except upon its through schedules.

There is insufficient evidence in this record to justify the conclusion that there is a public need for the transportation of baggage and express. After a careful review of all the evidence of record, we find that the only adequate showing made by applicant is for an improved service for the transportation of passengers between South Marysville and Olivehurst, on the one hand, and Camp Beale, on the other hand. In order to accomplish this, applicant will be authorized to operate (1) over Feather River Road between its intersection with Garden Avenue and U. S. Highway 99E; and (2) over a route beginning at the junction of U. S. Highway 99E and Olivehurst Avenue, thence over Olivehurst Avenue and 7th Avenue to its junction with U. S. Highway 99E. Upon the record made, the application must be denied in all other respects.

Gibson 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 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

---

(1) Decision No. 35292, in Application No. 24889, restricts this service by the following language:

"5. No passengers, baggage, or express shall be transported between Marysville and Yuba City except on through schedules."

rights which may be given.

O R D E R

An application therefor having been filed; a public hearing had, and the matter submitted; and it being found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity is hereby granted to Gibson Lines, 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 serving all points on and along Feather River Road between its intersection with Garden Avenue and with U. S. Highway 99E; and over, and serving all points on and along Olivehurst Avenue and 7th Avenue between the intersection of Olivehurst Avenue and U. S. Highway 99E and the intersection of 7th Avenue and U. S. Highway 99E (all in Yuba County); only on passenger stages operated to or from Camp Beale.

(2) That said certificate of public convenience and necessity is granted as an extension and enlargement of and consolidated with the operative right heretofore granted by Decision No. 35292,

(3) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 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, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(4) That the application in all other respects is hereby denied.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of December, 1944.

Richard Locke  
Justus J. Cooney  
Francis D. Havens  
Francis D. ...  
Frank ...  
COMMISSIONERS