

Decision No. 37617

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of)
F. M. SNELL, dba SAN BERNARDINO-)
HIGHLAND-PATTON MOTOR COACH LINE, for)
a certificate of public convenience.)
and necessity extending the operation)
of passenger service between Highland)
and San Bernardino via Base Line and)
Mountain View Avenue and also via Base)
Line and Waterman Avenue.)

Application No. 25663

SAN BERNARDINO VALLEY TRANSIT COMPANY,)

Complainant,)

vs.)

Case No. 4708

F. M. SNELL, dba San Bernardino-)
Highland-Patton Motor Coach Line,)

Defendant.)

MARTIN J. COUGHLIN, for applicant and defendant.

WM. GUTHRIE, for San Bernardino Valley Transit
Company, complainant and protestant.

BY THE COMMISSION:

O P I N I O N

In the above entitled application and the first amendment thereto, F. M. Snell requested the Commission to grant to him a certificate authorizing a passenger stage service over Victoria Avenue between its intersection with Base Line Avenue and its intersection with East 3rd Street. He also requested the Commission to authorize him to provide a passenger stage service over and along Waterman Avenue between its intersection with Base Line Avenue and its intersection with East 3rd Street.

Subsequent to the filing of such application and amendment, San Bernardino Valley Transit Company filed a complaint

against applicant Snell, as above entitled, alleging, among other things, certain illegal operations and practices.

A public hearing on these matters was held at the conclusion of which they were submitted, subject to the filing of briefs, since filed. The proceedings were consolidated for hearing and decision.

At the time of the hearing, Snell was operating between San Bernardino, Highland and Patton, in general over Base Line Avenue and other streets not involved herein. He was also operating between San Bernardino and East Highlands over East 3rd Street. (1) Following such submission Snell filed a further amended application eliminating his request for authority to operate over Victoria Avenue. Thereafter by letter dated October 26, 1944, counsel for complainant and protestant, San Bernardino Valley Transit Company, informed the Commission that if an acceptable order was issued in Application No. 26157, it would dispose of the controversial matters involved herein in so far as his interests were concerned. (2) Inasmuch as the complaint will be dismissed upon the

(1) Subsequent to the submission of these proceedings, and pursuant to Decision No. 37379, in Application No. 26157, Snell was authorized to transfer to Air Service Transit, Inc., a corporation, his operative right between San Bernardino and East Highlands over and along East 3rd Street.

(2) The letter dated October 26, 1944, states in part:

"My recollection of the stipulation was that in the event a decision in Application No. 26157 was made, acceptable to Air Service Transit Company, all matters involving all three companies would thereby be considered fully disposed of, except the application of F. M. Snell to operate a shuttle line on Waterman Avenue, between Base Line and Third Street."

basis of this statement, it is no longer necessary to consider the evidence relating thereto. This leaves for consideration only the request for authority to operate over Waterman Avenue.

Operation over Waterman Avenue would be in conjunction with and as a part of Snell's operation between San Bernardino, Highland and Patton over Base Line Avenue and other streets. The proposed operation over Waterman Avenue would be conducted either as a through operation between Highland and the proposed terminus at East 3rd Street, or as a shuttle operation between Base Line Avenue and East 3rd Street. At the intersection of East 3rd Street and Waterman Avenue connections would be made with Air Service Transit, Inc. presently operating along East 3rd Street where transfer of passengers would be made pursuant to an agreement entered into between applicant and this carrier. Under this arrangement passengers now served by applicant, and persons living in housing projects along Waterman Avenue would be afforded a more direct service to and from the San Bernardino Air Depot. That portion of Waterman Avenue which applicant herein proposes to serve would be within his present 6-cent fare zone.

It was shown that there is a large number of defense workers employed at the Airport who reside at the Waterman Gardens housing project in the vicinity of Base Line and Waterman Avenues, as well as upon the route presently served by applicant between Waterman Gardens and Highland. Under the proposed plan of operation passengers would be saved the necessity of being required to travel to the intersection of 3rd and E Streets in San Bernardino, the present connecting point of these two carriers, and the payment of two local fares.

After full consideration of the evidence of record it is our judgment public convenience and necessity requires the proposed operation of applicant over Waterman Avenue and the application will be granted.

F. M. Snell 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

A public hearing having been had in the above entitled matters, evidence adduced, and the matters submitted and the Commission now being fully informed therein,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity is hereby granted to F. M. Snell authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act; for the transportation of passengers over, and serving all points on and along Waterman Avenue, San Bernardino, between its intersection with Base Line Avenue and its intersection with East 3rd Street, as a part of and consolidated with the operation of applicant presently conducted

pursuant to the operative rights heretofore acquired by applicant under authority of the Commission's Decision No. 31751.

(2) 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 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, 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) That Case No. 4708 is hereby dismissed.

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

Dated at San Francisco, California, this 16th day of January, 1945.

Richard Locke
Justus F. Currier
Francis E. Brown
James H. Powell
David Hudson
COMMISSIONERS