

Decision No. 38029

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of STOCKTON CITY LINES, INC. for authority to:

(a) Change the route of its motor coach line No. 9 to Rough and Ready Island so as to avoid traversing U.S. Army's Ordnance Depot, and consolidate this line with its Southeast-Southwest motor coach line No. 5, and to operate the two as one route; abandon alternate route.

(b) Separate the Poplar Street line and Fremont-Pellock Line and operate them as two separate lines.

(c) Inaugurate a new line between Hunter Square, Stockton, and Cardinal and Washington Avenues, in the County of San Joaquin, a distance of approximately 4.3 miles.

All of which are described in this application and delineated on map of City of Stockton and environs, attached hereto, as Exhibit "A."

ORIGINAL

Application No. 26580

JONES & QUINN, By Gilbert L. Jones, for Applicant

REGINALD L. VAUGHAN, for Eskdale Newton, d.b.a. Newton Passenger Transportation Company, Protestant

JOSEPH TOPE, for the City of Stockton, Interested Party

J. P. SOMMERS, for Stockton Chamber of Commerce, Interested Party.

BY THE COMMISSION:

O P I N I O N

In this proceeding Stockton City Lines, Inc., requests permission to: (a) change the route of its No. 9 Motor Coach Line to Rough and Ready Island; (b) separate the Poplar Street Line and Fremont-Pellack Street Line; and (c) inaugurate a new line from Stockton to the intersection of Cardinal and Washington Avenues in the County of San Joaquin east of the city limits of Stockton.

Items (a) and (b) were disposed of by Interim Order in Decision No. 37713 in this proceeding, dated March 13, 1945.

Public hearings were held in this matter in Stockton on Apr. 26 and in San Francisco on Apr. 30, 1945, before Examiner Hall, for the purpose of making a record in connection with the inauguration of service between Stockton and the intersection of Cardinal and Washington Avenues only, (item (c) above).

Among the services now performed by applicant is one along East Main Street from the center of Stockton to Anteros Street, along Anteros Street to Horner Street, and along Horner Street to Sinclair Street.

It is proposed in this application to inaugurate a new route branching off from East Main Street at the intersection of Marsh Street, easterly along Marsh Street to Filbert Street, northerly along Filbert Street to Market Street, then easterly along Market Street, La Salle Street, Washington Street, Del Norte Avenue, Marsh Street, and Cardinal Avenue to its intersection with Washington Street, for the purpose of serving a residential area adjacent to the diverting canal.

At the hearing applicant amended its application by changing the proposed route to operate along Market Street from its intersection with East Main Street to Filbert Street, in lieu of operating along Marsh Street and Filbert Street, the rest of the route remaining the same.

The territory proposed to be served is located south of the right of way of Southern Pacific Company's Oakdale Branch, which lies parallel to and approximately midway between Miner Avenue and Weber Avenue east of the city limits of Stockton. The territory between Main Street and the right of way, both within and outside the city, is rather heavily populated, as is the area south of the railroad right of way and west of the diverting canal.

Due to the fact that East Main Street runs in a general northwest and southeast direction, Market Street and Main Street become farther apart as they extend easterly. Applicant's proposed line on Market Street at the city boundary is approximately one-fourth of a mile north of its Main Street line.

Applicant showed that loads on its existing Main Street line are becoming excessive, particularly as it approaches the downtown area, and stated that augmented service was necessary over this part of the Main Street route. The new route proposed is designed to fulfill a two-fold purpose: (1) to give transportation to the area in the vicinity of Southern Pacific right of way and the diverting canal, the territory on either side of the city boundary, and (2) give relief to the Main Street line, as both routes would traverse the same streets west of the intersection of Main and Market.

Newton Passenger Transportation Company which operates a service on East Fromont Street, Shasta Street, and East Miner Avenue (East Fromont Street Line) north of the Southern Pacific Company's right of way, protested the granting of the application on the grounds that the portion of the route along Market Street would be in direct competition with and only about one-fourth of a mile removed from its line and would therefore tend to divert travel from this line to the proposed route of applicant.

The right of way of Southern Pacific Company to a considerable extent acts as a barrier between the areas to the north and south. Two open crossings at grade only are provided over the railroad, one at Golden Gate Avenue and the other at Oro Street. The distance between these two crossings is somewhat more than one half mile. About midway between these two crossings is a footpath which can be used by pedestrians.

Protestant Newton suggested that instead of operating the route as proposed, applicant should extend its Main Street line from the intersection of Hornor and Sinclair Streets to the area in the vicinity of the diverting canal, in which event he would withdraw his protest.

Applicant showed that by the use of the route as proposed by it, service could be performed to take care of both the new passenger traffic and relieve the Main Street line at a lesser cost and by operating fewer bus miles than operating only an extension of the Main Street line, and furthermore, that certain of the territory would be left without convenient service.

It appears to us that by granting the application as amended the territory would be better covered, although at points the new route and the East Main Street line would be relatively close to each other. Due to the existence of Southern Pacific Company's right of way and the various industries established along that right of way, the territory along Market Street is to a considerable extent removed from the service north of that right of way; and the area along Market Street would be better served by the proposed route than by the services of Newton north of the railroad.

After a review of the entire record it is our conclusion that public convenience and necessity require the granting of this application as amended and it will be so ordered.

Stockton City Lines, 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 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 matter being under submission;

IT IS HEREBY ORDERED:

I. That a certificate of public convenience and necessity be and it is hereby granted to Stockton City Lines, Inc. for an automotive stage service for the transportation of passengers between the city of Stockton and territory in the vicinity of the diverting canal, in the County of San Joaquin, to be consolidated with the remainder of its operative rights, subject to the following condition:

The service herein authorized shall be commenced within a period of not to exceed ninety (90) days from the date hereof, on not less than one (1) day's notice to the Commission and the public.

II. In the operation of said passenger stage service pursuant to the foregoing certificate, Stockton City Lines, Inc. shall comply with the following service regulations:

1. Applicant shall file a written acceptance of the certificate herein granted within 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 tariffs and time schedules satisfactory to the Commission, within sixty 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 this Commission to change or modify it at any time by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following route:

Commencing at the intersection of Main Street and Market Street, thence east on Market Street to La Salle Street, south on La Salle Street to Washington Street, east on Washington Street to Del Norte Avenue, south on Del Norte Avenue to Marsh Street, east on Marsh Street to Cardinal Avenue, north on Cardinal Avenue to Washington Street, west on Washington Street to Walker Lane, south on Walker Lane to Marsh Street; returning via the same route.

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

Dated at San Francisco, California, this 26th day of June, 1945.

L. Harold Gudman
Justus F. Quessen
Richard Backus

Edward Powell
Commissioners