

Decision No. 38030

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ESKDALE
NEWTON, Individual doing business as NEWTON
PASSENGER TRANSPORTATION CO. for a certifi-
cate of public convenience and necessity to
operate motor bus service for the transporta-
tion of passengers, between Stockton and
intersection of California Highway No. 88
(formerly known of as Waterloo Road) and the
Diverting Canal and intermediate points; and
from the intersection of Wilson Way and East
Fremont Street to the intersection of Oro
Street and East Fremont Street and inter-
mediate points..

Application
No. 26556

ORIGINAL

REGINALD L. VAUGHAN, for Applicant.

JONES & QUINN, by Gilbert L. Jones, for Stockton City Lines, Inc.

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

Newton Passenger Transportation Company operates two routes
running into Stockton from unincorporated territory along Waterloo
Road and Fremont Street.

By this application request is made to extend the most
easterly loop of the Fremont route. (1) This route now terminates by
a loop operating around Shasta Street, East Miner Avenue, Broadway,
and East Fremont Street. It is proposed to extend this loop from the
intersection of East Miner Avenue and Broadway easterly along East
Miner Avenue to Oro Street, northerly along Oro Street to East Fremont
Street, and westerly along East Fremont Street to the intersection of

(1) Authority for establishment of East Fremont Street Line granted
by Decision No. 36715 in Application No. 25808, and extended by
Decision No. 36910 in Application No. 26021.

East Fremont Street and Broadway; and to eliminate service along Broadway between East Miner Avenue and East Fremont Street.

At the hearing held in this matter before Examiner Hall on April 26, 1945, in Stockton, and on April 30, 1945, in San Francisco, applicant showed that the operations along Broadway, particularly in the winter, are hazardous as the street is narrow and very often in passing another vehicle it is necessary to run off the shoulder and at times a motor bus mires in the mud. Another hazard is at the intersection of East Miner Avenue and Broadway where space is limited in making turns without running off the pavement. By the use of Oro Street instead of Broadway a much safer and more dependable operation can be had. Oro Street, being about 2,000 feet east of Broadway, would serve more territory.

Applicant showed that the same headways could be maintained on the East Fremont line without the necessity of additional vehicles.

After giving due consideration to the record in this proceeding we are of the opinion that a better operation can be maintained by this extension, and it will be so ordered.

Eckdale Newton, d.b.a. Newton Passenger Transportation Co., is 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 is hereby granted to Eskdale Newton, d.b.a. Newton Passenger Transportation Company, authorizing the operation as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, for the transportation of passengers between the intersection of East Minor Avenue and Broadway and the intersection of Oro Street and East Fremont Street, as an extension and enlargement of the operative rights created by Decision No. 36715 in Application No. 25808, as amended by Decision No. 36910 in Application No. 26021, subject to the following condition:

Passengers having their point of origin and destination within the area bounded by Hunter Square in the City of Stockton and the intersection of Locust Street (if prolonged) and East Fremont Street, on either incoming or outgoing travel, shall not be transported.

II. That in the operation of said passenger stage service Eskdale Newton shall comply with and observe the following service regulations:

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 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:

Beginning at the intersection of East Minor Avenue and Shasta Avenue, thence easterly on East Minor Avenue to Oro Street, thence northerly along Oro Street to East Fremont Street, and westerly along East Fremont Street to intersection of East Fremont Street and Broadway.

III. That Eskdale Newton be and he is hereby authorized to discontinue passenger stage service along Broadway between East Minor Avenue and East Fremont Street concurrently with the commencement of operation over the route hereinabove authorized.

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.

David Rudman
Justice J. C. ...
Richard ...
Commissioners