

Decision No. 38917

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Peter F. Lapp doing business under the fictitious firm name of EL CAJON VALLEY LINE for a Certificate of Public Convenience and Necessity to operate a motor bus service in the transportation of persons between El Cajon, Santee, Lakeside, etc. in the County of San Diego, State of California.

Application No. 27179

ORIGINAL

In the Matter of the Application of (1) HOMER WARD MEACHUM for certificate of public convenience and necessity to operate (2) a passenger and express property service as a common carrier, between El Cajon and Edgemoor Farm (Route #1) and El Cajon and Lakeside (Route #2).

Application No. 27297

PHIL JACOBSON for El Cajon Valley Line, Applicant in Application No. 27179; Protestant in Application No. 27297. CRAWFORD R. BONNER for Homer Ward Meachum, Applicant in Application No. 27297; Protestant in Application No. 27179. Morrison, Hohfeld, Forester, Shuman and Clark by FORREST A. COBB for San Diego Electric Railway Company, interested party. Miller, Higgs, Fletcher and Glenn by WILLIAM A. GLENN for Mountain Stage Lines, Inc., Protestant in both Applications. C. RUPERT LINLEY for Lakeside Chamber of Commerce, interested party.

O P I N I O N

Peter F. Lapp, doing business under the fictitious firm name of El Cajon Valley Line, (1) and Homer Ward Meachum (2) each seeks a certificate of public convenience and necessity authorizing him to operate as a passenger stage corporation in the area between El Cajon, Santee, Lakeside and Bostonia, San Diego County.

By reason of the fact that both applicants propose to perform a service over routes and through areas which, to all intents

(1) Hereinafter referred to as Lapp.  
(2) Hereinafter referred to as Meachum.

and purposes are identical, the matters were consolidated for the purposes of hearing and for decision.

A formal hearing was held in San Diego on April 2, 1945, before Examiner Ager, and the matters having been duly submitted, are ready for decision.

Lapp's application was filed with the Commission on December 29, 1945, whereas Meacham's application was filed on March 4, 1946. Lapp proposes to perform a loop service along a route commencing at the intersection of Magnolia Avenue and Main Street in El Cajon, thence through Santee, Lakeside, Winter Gardens, Bostonia and returning to the point of commencement. An amendment to his original proposal was filed at the hearing wherein a service is proposed southward from El Cajon along Magnolia Avenue to the intersection of Magnolia and Chase Avenues, roughly one mile. The total one-way route mileage proposed in the application, as amended, is approximately thirteen miles. Applicant proposes a series of six-cent fare zones, each zone to be at intervals of approximately 2.5 miles. Under this proposal, the fare from El Cajon to Lakeside would be eighteen cents. Initially, nine round trips daily are proposed.

Several witnesses appeared and offered testimony as to the need for service between Lakeside and El Cajon. In addition to those persons who offered testimony, many other persons were present, and it was stipulated that if called as witnesses, their testimony would be substantially the same as those who had previously testified. These witnesses indicated that the service proposed by Lapp was satisfactory and that since he was first to file, he should be entitled to some consideration by reason of this fact.

The record indicates that most of the people in the area involved are working people who own small orchards and homes, and whose regular employment is in or near San Diego. Normally, these

people are the owners of but one automobile, which is ordinarily used by the worker, thus leaving the housewife and remaining members of the family without means of transportation to and from the shopping area.

Applicant Lapp testified that he is qualified financially to provide the service if the certificate were issued to him, and that he is in a position to furnish cash up to the amount of \$15,000 for this venture. Lapp is an employee of a department store in El Cajon and has had no experience in the operation of a public utility transportation service such as is proposed herein.

Applicant Meachum is a furniture dealer in El Cajon and owns property there, as well as in Bostonia and Lakeside. His proposal for the establishment of service differs somewhat from that proposed by Lapp in that he proposes two routes, one of which would operate from the intersection of Magnolia Avenue and Chase Avenue northward through El Cajon to the County Farm in Santee and return. Route No. 2 would be from the intersection of Main Street and Magnolia Avenue in El Cajon to Lakeside, and return; the route differing slightly from that proposed by Lapp. Meachum proposes a series of five-cent fare zones, under which the fare from El Cajon to Lakeside would be twenty cents, as opposed to the eighteen-cent fare proposed by Lapp. Initially, ten round trips daily are proposed on each of the two routes. In each application the schedules are so set up that the service proposed could be rendered by a single bus.

Exhibit No. 1 introduced by applicant Meachum consists of a series of nine aerial photographs showing the development along the routes over which service is proposed. Inspection of these photographs reveals that there are more than nine hundred buildings (residence and business) which actually face the routes over which service is proposed, and that there are many more buildings in the area, the occupants of which would be within walking distance.

Meachum has had no experience in the operation of a public utility transportation service, but in connection with his furniture business, owns and operates one  $1\frac{1}{2}$  ton flat-rack truck, two pickup trucks and two passenger cars. In his opinion, the experience gained by such operation affords him some opportunity of judging what the cost would be for the performance of the service proposed. The record indicates that applicant Meachum is financially able to perform the service proposed if favorable action on his application is taken by the Commission.

The owner of the Mountain Stage Lines, Inc., appeared in protest to the granting of these applications, and stated that his company was operating one round trip daily through the area and into San Diego. Inbound this schedule leaves Lakeside at 8:30 a.m. and returns through Lakeside at 3:00 p.m. It appears obvious that such service would be of little or no value to a person employed in the metropolitan area of San Diego. Further than this, the record shows that fares of the Mountain Stage Lines, Inc., from Lakeside to San Diego, a distance of approximately twenty miles is 92 cents, with a round-trip fare of \$1.61. Similarly, the one-way fare from Lakeside to El Cajon is 52 cents, for a distance of six miles. Such fares are certainly not conducive to increasing the volume of patronage on this operator's route, even if satisfactory schedules were maintained.

Both applicants expressed a willingness to accept a restriction that no passengers would be transported locally along Main Street in El Cajon between Magnolia Avenue and "L" Street. Such a restriction would protect San Diego Electric Railway Company's rights in this area.

The City Council of El Cajon has adopted a resolution endorsing a proposal that service be instituted substantially along the lines proposed by these applicants, but has not endorsed either

application. Similar action has been taken by the San Diego County Board of Supervisors.

A careful review of the record leads us to the conclusion that public convenience and necessity require the establishment and maintenance of a transportation service in this area.

By reason of prior filing, applicant Lapp is the person to whom the certificate should be issued, although the route over which he proposes to operate is not, in our opinion, properly designed. Loop operation has never been recognized as the best type of service to a community, for the reason that persons boarding, as an example, at Santee would be required to ride through Lakeside and the entire remainder of the loop in order to reach El Cajon. This not only would involve the payment of additional fare, but would require the expenditure of more time than would appear to be necessary. Basically, the two routes as proposed by Meachum would appear to be a more sound proposal, but the evidence indicates that these routes are not all that could be desired.

The record indicates that there is little use for the establishment of service along Woodside Avenue between Magnolia Avenue and Riverside Avenue, because of an almost complete lack of development in this area. It also appears that the route proposed by Meachum over Riverview Avenue and Oak Avenue between Woodside Avenue and Cajon Avenue is ill-suited for use by public transportation vehicles because of an inferior type of pavement on these two streets, plus the fact that two bad turns would be required, and that the route should be via Cajon Avenue between Oak Avenue and Woodside Avenue. Meachum's route from the intersection of Broadway and Second Street in Bostonia to El Cajon seems superior to that proposed by Lapp. Further than this, such a route, if authorized, would eliminate the necessity of imposing restrictions on the operation such as

proposed by San Diego Electric Railway Company along Main Street between Magnolia Avenue and "A" Street.

The record shows that neither applicant has had any experience in the operation of a common carrier passenger stage service, that either applicant is financially responsible for the operation of such a service, that either proposal would provide service to the area, and that both proposals should be modified as to routes. In view of these facts, there appears to be little to choose between the applicants, except as to the date of filing. Lapp's application having preceded that of Meachum by more than two months, the certificate should issue to Lapp. In granting this certificate, we believe that it should not be granted as prayed for, but over the two routes as set forth hereinafter. Meachum's application will be denied.

Peter F. Lapp, doing business under the fictitious firm name of El Cajon Valley Line, 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 in no respect limited to the number of rights which may be given.

O R D E R

A public hearing having been had herein and the Commission now being fully advised, and it having been found that public convenience and necessity so require,

IT IS ORDERED as follows:

I.

(1) That a certificate of public convenience and necessity be, and it is hereby granted to Peter F. Lapp, doing business under the fictitious firm name of El Cajon Valley Line, 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 between El Cajon and Santee and intermediate points, and between El Cajon and Lakeside and intermediate points.

(2) That in providing such service pursuant to the certificate herein granted, Peter F. Lapp 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, 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 this Commission to change or modify such at any time, Peter F. Lapp shall conduct said passenger stage operations over and along the following described routes:

R O U T E 1

Commencing at the intersection of Chaso Avenue and Magnolia Avenue, thence northerly via Magnolia Avenue to Edgemoor Farm, returning via the reverse of the going route to the point of commencement.

ROUTE 2

Commencing at the intersection of Main Street and Magnolia Avenue in the City of El Cajon, thence via Magnolia Avenue, Broadway, Second Street, Cajon Avenue, Woodside Avenue, Maine Street to Sycamore Park Boulevard in Lakeside, returning via the reverse of the going route to the point of commencement.

Applicant is authorized to turn his motor vehicles at termini or intermediate points by operating around a block in either direction contiguous to such intersection or in accordance with local traffic rules.

II.

That Application No. 27297 of Homer Ward Meachum be, and it is hereby denied.

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

Dated at San Francisco, California, this 2<sup>nd</sup> day of May, 1946.

Edward Anderson  
Justus F. Greener  
Francis E. ...  
San D. ...

Commissioners