

Decision No. 39106

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
ARVIN LINE, a corporation, for a)	
certificate authorizing a passenger)	Application No. 27358
stage service as an extension and)	
enlargement of applicant's present)	
rights:)	

HERBERT CAMERON, for applicant.
 D. BIANCO, for Bakersfield and Kern Electric Railway
 Company, protestant.

O P I N I O N

Arvin Line, hereinafter referred to as the applicant, owns a passenger stage operative right between Bakersfield and Mojave and intermediate points. ⁽¹⁾ On March 26, 1946, it filed an application seeking an enlargement of its operative right extending some two miles in an easterly direction beyond the city limits of Bakersfield and in proximity to one or more subdivisions.

The Commission issued its ex parte order granting the application as prayed for. ⁽²⁾ Before the effective date of the order, counsel for Bakersfield and Kern Electric Railway Company protested the issuance of the certificate on the ground that the right granted to applicant was competitive with the present authorized operation of protestant, and requested that the matter be reopened for hearing.

The Commission, accordingly, made its order reopening the matter and extending the effective date of the order to May 22, which was later extended to June 22.

(1) Decision No. 37797, dated April 17, 1945, Application No. 26592.

(2) Decision No. 38856, dated April 16, 1946, Application No. 27358.

Hearing was held at Bakersfield on May 9, 1946, at which applicant and protestant were given full opportunity to present evidence.

Applicant testified that the area involved is undergoing an extensive growth in population, in number of residences and business activities, and that there was a lack of public transportation for such part of the public as resided in such subdivisions and was employed at Bakersfield. A large number of residents of the district were in attendance at the hearing and several of them testified as to the need for additional transportation. One witness testified that as far back as 1941 she and three other residents called on the manager of the protestant line and urged the immediate need for additional service but without success, notwithstanding that protestant had made other extensions.

The basis of protest is that applicant's proposed service will be competitive with protestant's operations and that protestant has formulated plans for expanding its service in this territory. Its manager admitted that there was immediate need of additional service but that the protestant is better equipped to furnish such service at such time as it can procure additional equipment. However, at the time of the hearing there was no application on file with the Commission setting forth any offer of service by the rail line. The proposal of applicant offers service to an area considerably broader than that referred to by an operating witness of the company, in that it extends service along Pioneer Drive and Fairfax Road to Red Bank Road, a distance of approximately 3½ miles through territory not included in protestant's proposal as outlined at the hearing.

We have, then, this situation. The applicant has made an offer of service and stands ready, willing and able to initiate such service immediately. It has sufficient equipment and proposes a frequency of service sufficient to adequately take care of the anticipated traffic, and to render such service at reasonable rates of fare. The area to be served, according to the testimony of witnesses, has for some time been badly in need of transportation service.

On the other hand, we have only the statement of protestant that it intended at some time in the future to file an application that would at best serve only a part of the area proposed to be served by applicant. Its position is hardly tenable, in view of the fact that it offers nothing tangible to relieve an insistent demand for service which applicant is ready to supply.

We see no justification for interfering with the findings and conclusions reached in our order of April 16, 1946, and the decision and order will be affirmed.

O R D E R

A request for hearing in the above entitled matter having been received from Bakersfield and Kern Electric Railway Company, a corporation, such hearing having been held, and the matter having been submitted and the Commission having fully considered the same, and being fully informed therein,

IT IS ORDERED that Decision No. 38856 be and it hereby is affirmed in all respects.

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

Dated at San Francisco, California, this 18th day of June, 1946.

L. Harold Anderson
Justice F. C. Brewer
Francis D. Brown
Joseph L. Sullivan
Harold P. Hull
 COMMISSIONERS