

Decision No. 39270

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of STOCKTON)
CITY LINES, INC., for authority to reroute)
certain motor coach lines; separate the)
Poplar Street line and Fremont-Pollock line)
and operate them as two separate lines; and)
inaugurate a new line between Hunter Square,)
in Stockton, and Cardinal Ave. and Washington)
Street, in the county of San Joaquin, a)
distance of approximately 4.3 miles.)

ORIGINAL

Application
No. 26580

JONES and QUINN, for Stockton City Lines, Inc., applicant;
REGINALD L. VAUGHAN, for Eskdale Newton, doing business
as Newton Transportation Company, protestant.
JOSEPH C. TOPE, City Attorney, for City of Stockton,
interested party.

O P I N I O N

By its application as amended, Stockton City Lines, Inc., seeks a certificate of public convenience and necessity authorizing (among other operations) the establishment of a motor coach passenger service (to be integrated with its city-wide operations), between the Court House Square (at Main and San Joaquin Streets), in the City of Stockton and the intersection of Cardinal Avenue and Washington Street in unincorporated territory lying east of and adjacent to the city, a distance of approximately 4.3 miles. The application was opposed by Eskdale Newton, doing business as Newton Transportation Company, who operates a bus line over East Fremont Street, north of applicant's proposed route. The City of Stockton appeared as an interested party.

In certain respects, as to which no controversy existed,
(1)
the application was granted by an interim order. Following a

(1) By Decision No. 37713, dated March 13, 1945, certain route changes, sought by applicant, were authorized in its Rough and Ready Island, Southeast, Poplar Street, Fremont, and Pollock lines, thus disposing of these phases of the application.

public hearing, the Commission issued a certificate to applicant authorizing operation, as proposed. (Decision No. 38029, dated June 26, 1945) Rehearing was denied. However, the matter was reopened, at the instance of protestant Newton, and a further hearing was had before Examiners Hall and Austin at Stockton on September 12 and December 10, 1945, when the matter was finally resubmitted upon briefs, since filed. ⁽²⁾ An interim certificate was issued (Decision No. 38519, as modified by Decision No. 38543, dated December 14 and 18, 1945, respectively), authorizing service over the proposed route, ⁽³⁾ subject to certain limitations.

Applicant's showing was presented through its operating officials, through representatives of various public agencies, and through residents of the affected area. In support of his protest, Newton and his representatives testified. The City of Stockton called its City Manager, as well as various public witnesses.

The territory involved lies south of the Oakdale branch-line of Southern Pacific Company and west of the Diverting Canal, which diverges from the Calaveras River. That portion of the area, extending east from Wilson Way to the city boundary, at Filbert Street, lies within the city; the remainder is situated in unincorporated territory, in San Joaquin County. East Main Street, bordering the district on the south and constituting one of the principal traffic arteries, veers somewhat to the southeast,

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- (2) At the hearing held September 12, 1945, the matter was submitted, but it was reopened for further hearing by order dated September 25, 1945. On December 10, 1945, it was resubmitted.
- (3) The interim certificate authorized the operation of a bus service over the proposed route, subject to the limitation that no passengers may be picked up or discharged at any point on Market Street between Filbert Street and La Salle Street.

diverging from the railroad track. Thus the eastern portion of the area is wider than the western.

Applicant, Stockton City Lines, Inc., conducts a mass transportation motor coach passenger service throughout the City of Stockton and its environs, operating over an integrated network. The service proposed, if authorized, would be consolidated with the system operations. The universal 7-cent single one-way fare, with transfer privileges, would apply to the proposed extension. Equipment now available would be used to supply the service.

Through its East Main Street line, applicant now serves the southern part of this district. Extending from the College of the Pacific (in the northern section of the city) to Court House Square, the line continues along East Main Street to Anteros Avenue (east of the city limits), thence over Anteros Avenue to Horner Avenue, and along Horner Avenue to the terminus at Sinclair Avenue. Beyond Main Street and Garden Avenue (two blocks west of Anteros Avenue), a tripper service only is furnished.

Under applicant's proposal, a line would be established diverging from East Main Street at Market Street, and extending east along Market Street to La Salle Street (six blocks east of the city boundary), south on La Salle Street to Washington Street, east on Washington Street to Del Mar Avenue, south on Del Mar Avenue to Marsh Street, east on Marsh Street to Cardinal Avenue, and north on Cardinal Avenue to the terminus at Washington Street. For convenience, this will be referred to as the Market Street extension. The present terminus of the East Main Street line, at Horner and Sinclair Avenues, is distant approximately one-half mile from the

intersection of Del Mar Avenue and Marsh Street, on the proposed route, where the two lines most closely approach one another. (4)

Under certificates issued by the Commission, protestant Newton conducts a bus operation over certain routes, one of which serves the territory lying immediately north of the Southern Pacific-Oakdale branch-line. (5) This route extends east from Court House Square along Weber Street to Wilson Way, north on Wilson Way to East Fremont Street; over a loop around Gratton Avenue, Flora Street, "D" Street, Poplar Street and Sargent Avenue; east on East Fremont Street to Oro Avenue, south on Oro Avenue to Miner Avenue, west on Miner Avenue to Shasta Avenue and north on Shasta Avenue to East Fremont Street. (6) The operation is subject to certain limitations.

No issue was raised regarding the need of those residing east of La Salle Street for a more adequate transportation service. The necessity for such a service was conceded by protestant and established by the record. In the district south of the railroad track and extending from La Salle east to the Diverting Canal,

(4) Originally, applicant proposed to extend its East Main Street line from its present terminus at Horner and Sinclair Avenues, east along Horner Avenue to Del Mar Avenue, thence north on Del Mar Avenue to Marsh Street, and continuing over Marsh Street and Cardinal Avenue to the terminus at Washington Street. At the initial hearing, this proposal was withdrawn, and the operation over Market Street substituted.

(5) Newton's authority to provide the service described rests on the following decisions, viz.: Decision No. 36715, rendered November 23, 1943, in Application No. 25808; Decision No. 36910, rendered March 7, 1944, in Application No. 26021; and Decision No. 38030, rendered June 26, 1945, in Application No. 26556.

(6) Decisions Nos. 36910 and 38030 provide that:

"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."

there reside a population of approximately 2,600⁽⁷⁾. Many of these residents, in order to reach applicant's East Main Street line, are required to walk distances upward of one mile⁽⁸⁾. To meet their requirements, we shall authorize an extension of applicant's service to this territory, in the order which follows.

With respect to the area lying south of the track, and extending from Filbert to La Salle Streets, applicant contends that the population is of sufficient density and volume to warrant the establishment of an adequate transportation service; that this district would best be served by a line on Market Street rather than by an extension of the existing East Main Street line along Sinclair Avenue and Washington Street since, under the latter plan, a large area would remain inadequately served; that the Market Street extension would relieve the present overloading of the East Main Street line; that under this plan the East Main Street line would be left free to serve tributary territory where future development reasonably may be anticipated; and that protestant's East Fremont Street line does not adequately serve the territory.

(7) The data supplied through witness Bissell, consultant for both the city and the county Planning Commissions, indicate that the population within the district described is approximately as follows:

Between Del Mar Avenue and the Diverting Canal, and the Southern Pacific-Oakdale line and East Main Street	1,750
Between Oro and Del Mar Avenues, and the rail- road tracks and a point one-half block south of Washington Street	500
Between La Salle Street and Oro Avenue and the railroad tracks and a point one-half block south of Washington Street	340
Total	2,590

(8) Ordinarily, residents of this territory, desirous of using applicant's East Main Street line, must walk to the terminus at the Roosevelt School, situated at Garden Avenue and Main Streets. Beyond that point a tripper service only is maintained.

Protestant, on the other hand, contends that those residing east of Oro Avenue (four blocks east of La Salle Street) would adequately be served by an extension of applicant's East Main Street line over Sinclair Avenue and Washington Street to Del Mar Avenue, and thence as proposed by applicant; that such a course would alleviate the congestion on the East Main Street line; that any possible future development of territory tributary to the East Main Street line is speculative and should not be considered; that protestant's East Fremont Street line adequately serves the territory and should be protected against destructive competition; that this line would suffer so great a loss of traffic were the Market Street extension sanctioned that its operation consequently would be abandoned; and that any inconvenience suffered by those residing within the area bordering Market Street, were the present East Main Street line extended, as proposed, would be outweighed by the necessity of preserving the East Fremont Street line.

Within the territory in issue reside some 1,200 people (exclusive of those who conveniently could continue to use the existing East Main Street line), who would be accommodated by the proposed Market Street extension. According to data submitted by witness Bissell, those now using the East Main Street line must walk from 2000 to 3500 feet. Some residents testified they were required to walk upwards of one mile.

If the East Main Street line were extended along Sinclair Avenue and Washington Street, as protestant suggests, those residing within the district extending from Filbert Street to La Salle Street, and from Market Street to Ensenada and Washington Streets, having a total population of around 750, would be obliged to walk from 1900 to 3000 feet to reach the East Main Street line.

Should they desire to travel on the East Fremont Street bus they must walk from 1900 to 2300 feet. Any inconvenience thus experienced by the residents of this area, protestant contends, would be outweighed by the public disadvantages assertedly flowing from the establishment of the Market Street extension with its consequent effect upon the East Fremont Street line.

A line on Market Street serving the adjacent area, applicant asserts, would relieve the congestion now existing on the East Main Street line. The latter, it was shown, is more heavily loaded than any other line in the system. A traffic check submitted by an operating official discloses that a large portion of those using the East Main Street line reside east of the city limits and north and east of the present terminus. Approximately 60 percent of the passengers carried originate and terminate at points east of Ophir Street; the remainder travel between Ophir Street and the College of the Pacific. The proposed Market Street line, it appears, would also be combined with the present Fremont-Pollock Shipyard line, extending over West Fremont Street. This arrangement, we believe, would alleviate the heavy overloading of the East Main Street line.

Applicant suggests that should U. S. Highway No. 99 be relocated, as now contemplated, so as to cross East Main Street at a point east of applicant's present terminus, the anticipated concentration of population in the adjacent area would necessitate an extension of transportation service out East Main Street. This, assertedly, would be difficult to accomplish were the East Main Street line diverted northward, as protestant proposes, to serve the territory between Del Mar Avenue and the Diverting Canal. Protestant contends that the extent of any development occasioned by the relocation of the highway is too speculative to warrant consideration.

at this time. With this contention we agree. Such a situation may be brought to our attention should it ever arise.

As stated, protestant's East Fremont Street line extends out East Fremont Street from Wilson Way to Oro Avenue, looping back via Oro, Miner and Shasta Avenues. The one-way fare to and from points east of Shasta Avenue is 10-cents; west of Shasta Avenue it is 7-cents. Miner Avenue lies one block north of the railroad track, which separates this line from the area involved.

Of primary importance in the determination of this controversy is the accessibility of the East Fremont Street line to those residing within the area extending southward from the railroad track to Market Street. Between Filbert Street and Oro Avenue, a distance of three-quarters of a mile, there are three public highway crossings, viz.: at Filbert Street, and at Golden Gate and Oro Avenues. The right of way is fenced, and on each side of the track are shallow trenches or borrow-pits which are filled with water during the rainy season. At Broadway the wire fence is down and a footpath crosses the right-of-way; however, this street has not been opened officially as a public crossing over the railroad track.

To reach the East Fremont Street line, residents of the area lying between the track and Market Street must travel distances well in excess of one-quarter of a mile. Often, circuitous routes must be followed, to reach the open highway crossings. Passengers using protestant's line and traveling to and from points served by applicant must pay an additional fare; over both lines this may aggregate 17-cents.

A large share of the passengers using the East Fremont Street line, protestant claims, would be diverted to the Market Street line, were it established. A traffic check conducted by the Commission's engineering staff discloses that some 30 percent of the patrons of the East Fremont Street line reside in the area tributary to the contemplated Market Street extension. An estimate submitted by protestant indicates that the proportion would be even larger. Because of manifest inaccuracies inherent in the latter survey, we shall accept the figure indicated by the Commission's staff investigation.

The loss of so large a share of this traffic, protestant asserts, would necessitate the abandonment of the East Fremont Street line. This operation, Newton testified, still is in the pioneering stage; it is now conducted at a loss, averaging \$517 monthly. ⁽⁹⁾ If this loss continued, Newton stated, he would be compelled to discontinue the service. Were the line insured protection against the competition which would flow from the establishment of the Market Street extension, Newton believed, it ultimately could be operated at a profit. This opinion rests upon anticipated industrial development, and the construction of a new high school on East Fremont Street.

(9) Newton testified that during the 10 months period ending October 31, 1945, the revenues and expenses incidental to the operation of the East Fremont Street line were as follows:

Income	\$18,012.46
Operating expense	18,443.84
Net loss	431.38

The operating expense was predicated upon a system average out-of-pocket cost of \$21.32 per vehicle mile. If the management expense were included, the loss would be increased to approximately \$517 per month.

The record is convincing that the residents of the district affected urgently need an adequate transportation service. This can best be supplied, we believe, by a motor coach line on Market Street, as applicant has proposed. To continue the present East Main Street line over Sinclair Avenue and Washington Street, as protestant suggests, would leave a substantial part of this territory without adequate or convenient service. The East Fremont Street line, it appears, does not meet the needs of those residing within the territory involved. The railroad track is an effective barrier, cutting off convenient and ready access by these residents to the East Fremont Street line. The public crossings are widely separated. Prospective patrons should not be relegated to footpaths crossing the tracks and the adjacent borrow-pits. To prevent the entrance of a competitor, an operator in the field must show that he is supplying an adequate service. Protestant is entitled to no such immunity, since a showing of that character is absent here.

The application, accordingly, will be granted. In the order which follows a certificate will be issued authorizing the establishment of service throughout the territory covered by the application, thus eliminating the limitations imposed by the interim certificate granted by Decision No. 38519, as amended by Decision No. 38543.

O R D E R

Application having been made as above entitled; a public hearing having been had; the matter having been duly submitted; and it being now found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be, and it is hereby granted to Stockton City Lines, Inc., a corporation, authorizing the establishment and operation of a service as a passenger stage corporation, as defined by Section 24, Public Utilities Act, as an extension of and to be consolidated with its present operations, for the transportation of passengers between the points and over the route described as follows:

Commencing at a loop in the City of Stockton, around the block bounded by San Joaquin, Main and Hunter Streets and Weber Avenue, thence east on Weber Avenue to Ophir Street; south on Ophir Street to Main Street, southeast on Main Street to Market Street, east on Market Street to La Salle Street, south on La Salle Street to Washington Street, east on Washington Street to Del Mar Avenue, south on Del Mar 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, in San Joaquin County, east of and in the territory situated adjacent to the Stockton city limits; returning via the same route.

Said certificate is issued in lieu of the interim certificate of public convenience and necessity granted by Decision No. 38519, as amended by Decision No. 38543, rendered herein; which said interim certificate is hereby revoked and annulled.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.

b. 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 60 days from the effective date hereof and on not less than one day's notice to the Commission and the public.

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

Dated at San Francisco, California, this 30 day of July, 1946.

Harold Rudman
Justice J. Quinn
Frank A. Lewis
John H. Lewis
Harold P. Kula
COMMISSIONERS