

Decision No. 40150**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 LLOYD G. THOMSON doing business as )  
 MARIPOSA TRAILWAYS for a certificate )  
 of public convenience and necessity )  
 to operate a passenger and express )  
 service as a common carrier between )  
 Midpines, California, and Merced, )  
 California. )

Application No. 27817

HAROLD H. PRICE, for applicant.  
 SPURGEON AVAKIAN, for Glen Scholl, protestant.

**O P I N I O N**

In this amended application Lloyd G. Thomson doing business as Mariposa Trailways requests a certificate of public convenience and necessity to operate a passenger and express service as a common carrier between Merced and Mariposa serving intermediate points.

A public hearing was held by Examiner Gannon at San Francisco on February 28, 1947.

The route over which applicant proposes to operate after leaving Merced lies via the communities of Snelling, Merced Falls, Hornitos, Mt. Gaines, Cathay, Mt. Bullion and Mariposa, a distance of 62 miles. The area is largely devoted to dairying, cattle raising and mining. By amendment the application eliminated all of the territory east of Mariposa to and including Midpines. As a result of this amendment, Yosemite Park and Curry Company signified its intention not to protest the granting of the application.

It is alleged by applicant that there is no public transportation available since the abandonment of the Yosemite Valley Railroad in 1945 and that there are no facilities for transporting

the agricultural and mining workers between Merced and the points proposed to be served.

(1) Applicant proposes to operate two round trip schedules daily. One-way passenger fare between Merced and Mariposa is fixed at \$1.25. Applicant plans to purchase a 28-passenger bus, the time of delivery of which is presently doubtful, and to augment such equipment as necessity may require.

The application was protested by Glen Scholl, doing business as Mariposa Express who holds a certificate from the Commission authorizing the transportation of property between Merced and Midpines serving intermediate points over State Highway No. 140. Protestant's objection goes only to the transportation of property by the applicant between Merced and Mariposa. The route over which applicant proposes to operate roughly parallels the Scholl operation at an average distance of some 12 miles except as to a small strip of territory from Cathay to a cut-off point approximately three miles east on State Highway No. 140, and over this three-mile strip both operations would be along State Highway No. 140. This objection is met by applicant's offer to eliminate express shipments which have both origin and destination on that portion of said highway easterly from Cathay to said cut-off point.

In the transportation of express shipments applicant testified that he proposed to transport only packages weighing not over 125 pounds each and measuring not over 16 cubic feet in volume,

---

(1) A morning schedule will leave Mariposa at 7:15 and an afternoon schedule at 3:15. In the reverse direction, the morning schedule will leave Merced at 9:30 and in the afternoon at 5:30. One Sunday schedule will be operated, leaving Mariposa at 9:15 a.m. and returning, leave Merced at 3:30 p.m. Two schedules will be made available on Saturdays, leaving Mariposa at 7:15 a.m. and 5:15 p.m. and returning, leave Merced at 11:30 a.m. and 11:30 p.m.

and to charge a flat rate of 50 cents per 100 pounds.

Protestant urges that the transportation of property by applicant should be limited to such points as are not served by protestant on his operation over State Highway No. 140, to wit: Merced, Cathay and Mariposa.

While it is true that applicant did not produce any public witnesses to testify regarding the need for the proposed service, either passenger or express, the record is sufficiently clear that the establishment of the operative right prayed for will afford transportation service to a substantial area not now provided with any such service.

Protestant's brief stresses the adequacy of the Scholl service over State Highway No. 140 and testified that he had received no complaints regarding such service. He testified that express shipments under 125 pounds per package constituted not over 2 per cent of his total shipments between the termini of Merced and Mariposa.

The application, insofar as it seeks a certificate to transport passengers over the route proposed, will be granted. There is no evidence in the record of any inadequacy in express service between the termini of Merced and Mariposa over State Highway No. 140. That field appears to be well served by protestant Scholl who has maintained a daily service over the route for some nine years. The order following will provide for the granting of a certificate for the transportation of express parcels between Merced and Mariposa and intermediate points, excluding service to and from Merced and Mariposa.

Lloyd G. Thomson 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 not in any respect limited to the number of rights which may be given.

O R D E R

Application having been made in the above-entitled matter and the Commission being duly advised,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Lloyd G. Thomson authorizing the establishment and operation of service as a passenger stage corporation as defined in Section 24 of the Public Utilities Act, for the transportation of passengers, their baggage and shipments of express weighing not to exceed 125 pounds each, and not exceeding 16 cubic feet in volume, on passenger carrying vehicles only between Mariposa and Merced and intermediate points, subject to the following restrictions:

- (a) No express shipments having either origin or destination on that portion of State Highway No. 140 between Cathay and a cut-off point approximately three miles east thereof, and including both such points, shall be accepted for transportation.
- (b) Shipments of express having either point of origin or point of destination at Merced shall not be transported if such shipments have either point of origin or point of destination at Mariposa.

(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. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and 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 tables.
- c. Subject to the authority of this Commission to change or modify it by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following route:

Commencing at Merced to Snelling, Merced Falls, Hornitos, Mt. Gaines, Cathay, Mt. Bullion, thence to Mariposa and return over the same route.

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

Dated at San Francisco, California, this 8<sup>th</sup> day of April, 1947.

Harold Kula  
Justus F. Craven  
Frank Powell  
A. J. ...  
...

COMMISSIONERS