

ORIGINAL

Decision No. 42698

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 certificate)
of public convenience and necessity))
to operate passenger service as a)
common carrier, between Mariposa,)
California and Yosemite Parkline,)
California.)

Application No. 29441

Robert C. Curran, for applicant.
Brobeck, Phleger and Harrison by George D. Rives
for Yosemite Park and Curry Co., protestant.

O P I N I O N

In this proceeding applicant Lloyd G. Thomson, doing business as Mariposa Trailways, seeks a certificate of public convenience and necessity authorizing him to establish and operate service as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, for the transportation of passengers and baggage between Mariposa and Yosemite Park Line via State Highway 140. The granting of this application was protested by the Yosemite Park and Curry Co.

A public hearing was held before Examiner R. K. Hunter in Mariposa on September 28, 29 and 30, 1940, at which time the matter was submitted on briefs which have been filed.

The applicant presently holds a certificate authorizing operation as a passenger stage corporation for the transportation of passengers, their baggage and shipments of express between Mariposa, Merced and intermediate points, subject to certain restrictions concerning shipments of express, over a route commencing at Merced thence extending to Snelling, Merced Falls, Hornitos,

Mt. Gaines, Cathay, Mt. Bullion, and Mariposa (Decision No. 40150, Application No. 27817). In this service applicant operates two round trip schedules a day Monday through Saturday, and one round trip schedule on Sundays and holidays. He presently owns four buses, only one of which is needed for his existing service.

The applicant requests, in this proceeding, a certificate authorizing the transportation of passengers and baggage between Mariposa, Yosemite Park Line and intermediate points via State Highway 140, a distance of 32 miles. The proposed schedule (1) contemplates two round trips daily. In operating on this schedule full stops will be made at each point shown and flag stops at any other point between. No reservations will be required.

In the proposed service the use of a 25-passenger Flexible Flyer bus equipped with a Chevrolet high torque engine is contemplated. In the applicant's judgment this piece of equipment is ideally suited to the proposed operation. The proposed one-way fares are based on 2 cents per mile and round trip fares are approximately 180 per cent thereof.

The protestant, Yosemite Park and Curry Co., presently holds a certificate authorizing operation as a passenger stage

(1)

Daily Schedule

<u>Miles</u>	<u>Read Down</u>		<u>Town</u>	<u>Read Up</u>	
0	7:30 P	10:30 A	Lv Mariposa	Ar	9:20 A 5:20 P
7	7:40 P	10:40 A	" Midpines	Lv	9:10 A 5:10 P
13	7:50 P	10:50 A	" Briceburg	Lv	9:00 A 5:00 P
23	8:05 P	11:05 A	" Clearing House	Lv	8:45 A 4:45 P
26	8:10 P	11:10 A	" Indian Flat	Lv	8:40 A 4:40 P
29	8:15 P	11:15 A	" El Portal	Lv	8:35 A 4:35 P
32	8:20 P	11:20 A	Ar Yosemite Park Line	Lv	8:30 A 4:30 P

corporation over four routes between Yosemite National Park and
(2)
other points in California. While only a portion of protestant's

- (2) Decision No. 31396, dated October 31, 1938, and Decision No. 38091, dated July 27, 1945, in Application No. 21861:

Route A - Passengers, baggage and property between Merced and Yosemite Park and intermediate points over and along State Route No. 140 via Mariposa and Briceburg detouring from said route near Mariposa, proceeding to Yosemite National Park via Mormon Bar and Wawona and/or Miami Lodge.

Restriction - Along Route A no property may be transported between Merced and Midpines and intermediate points except property originating at or destined to points easterly of Midpines to and including Yosemite National Park, provided that this restriction shall not apply to newspapers.

Route B - Passengers and baggage between Fresno and Yosemite National Park and intermediate points over and along State Route No. 41 via Kelshaw Corners and Coarsegold and alternate routes via Friant, Clovis, Auberry, North Fork and Wishon or any combination thereof entering Yosemite National Park near Mariposa Grove.

Restriction - (a) Service over Route B will be provided only for traffic having either point of origin or destination at Yosemite National Park.

(b) Service over Route B shall be a seasonal service between the approximate dates of May 1 and October 1 of each calendar year when road and weather conditions permit.

Route C - Passengers, baggage and property between Yosemite National Park and Lake Tahoe and intermediate points over and along the Big Oak Flat Road to Carl Inn, thence easterly over State Route No. 120 to Westerly boundary of Yosemite National Park, thence across said Park through Tuolumne Meadows to the intersection of State Route No. 120 with U. S. Highway No. 395 near Mono Lake, thence northerly through Bridgeport and Coleville to U. S. Highway No. 50, thence along said highway No. 50 to its intersection with State Route No. 89, thence to Tahoe City; an optional diversion from U. S. Highway No. 50, east of Lake Tahoe, thence northerly around the north end of said lake to Tahoe City.

Restrictions (a) Service over Route C will be provided only for traffic having either point of origin or destination at Yosemite National Park.

(b) Service over Route C shall be seasonal service between the approximate dates of July 1 and September 1 of each calendar year when road and weather conditions permit.

(c) No property may be transported over Route C except between Yosemite Valley and Tuolumne Meadows Lodge.

Route D - Passengers and baggage between Yosemite Valley and Hetch Hetchy over and along Big Oak Flat Road through Carl Inn and Mather.

Route A is the area involved in the present application, it is believed that for an understanding of the issues involved a description of all routes is essential. In addition to these four routes, Yosemite Park and Curry Co. also operates sight-seeing tours within the Park itself.

The protestant, as of June 18, 1948, the date this application was filed, operated two round trips daily over Route A between Merced and Yosemite National Park via State Highway 140. (3)

The protestant's one-way fares between Merced and Mariposa and intermediate points are based on 4 cents per mile and those between Mariposa and El Portal and intermediate points on 7½ cents per mile. (4) The round-trip fares are 180 per cent of the one-way fares.

(2) Continued

Restrictions (a) Service over Route D will be provided only for traffic having either point of origin or destination at Yosemite National Park.

(b) Service over Route D shall be a seasonal service between the approximate dates of June 1 and September 1 of each calendar year when road and weather conditions permit.

(3)

Miles	<u>Read Down</u>			Stations	<u>Read Up</u>		
	#1		#3		#4		#2
0	1:20 P		4:45 P	Lv Merced (SP)	Ar 11:40 A		4:05 P
37	F 2:30 P	F	5:50 P	Lv Mariposa	Lv 10:30 A	F	2:55 P
46	2:45 P	F	6:05 P	Ar Bear Creek	Lv 10:15 A		2:40 P
36	2:55 P		-	Lv Bear Creek	Ar 10:05 A		2:30 P
50	F 3:05 P	F	6:15 P	Lv Briceburg	Lv 9:55 A	F	2:20 P
62	F 3:23 P	F	6:33 P	Lv Indian Flat	Lv 9:37 A	F	2:02 P
67	F 3:30 P	F	6:40 P	Lv El Portal	Lv 9:30 A	F	1:55 P
82	4:00 P		7:10 P	Ar Yosemite Val.	Lv 9:00 A		1:25 P

Restrictions: F - Stops on flag to pick up passengers.

(4) Yosemite Park and Curry Co., Section 63 Application of April 25, 1945, and P.U.C. authority 63-18265 of the same date.

As of the date of the filing of this application, June 18, 1948, the following rule (Item No. 110) was carried in the Yosemite Park and Curry Co.'s Local Passenger Tariff No. 4, C.R.C. No. 19.

"Reservations of seats on stages between Merced and Yosemite Valley and to and from Mariposa (town) over All-Year Highway Route Division,, are assured only when passenger makes reservation and purchases ticket at least three hours prior to scheduled leaving time;"

A substantially similar provision has been carried in Yosemite Park and Curry Co. Tariffs at least since May 30, 1926.⁽⁵⁾

Thirty-two pieces of equipment are owned by Yosemite Park and Curry Co. and are operated as needed on any of the four authorized routes and on the sightseeing trips within the Park.⁽⁶⁾ The Company follows a program of rotating the drivers on all routes.

At the hearing some 28 witnesses were called and 12 exhibits were introduced by the applicant in support of his application. The evidence thus presented will be briefly summarized.

The applicant testified that in his judgment the furnishing of the proposed service would be a pioneering venture; that the area between Mariposa and Yosemite Park Line along State Highway 140 offers favorable possibilities for future development and growth and for the attracting of permanent residents and tourist trade, providing a convenient service at relatively low cost to the traveling public could be established; that lack of such transportation

(5) Yosemite Park and Curry Co. Local Passenger Tariff No. 3, issued May 24, 1926, effective May 30, 1926.

(6)	<u>No. of Units</u>	<u>Make</u>	<u>Body Style</u>	<u>Seating Capacity</u>
	8	Pierce Arrow	Bus	14
	20	Cadillac	Bus	11
	1	Cadillac	Sedan	7
	<u>32</u>			

service has impeded the growth and development of Mariposa County in general and this area in particular. The evidence indicates that there are available large areas which hold definite possibilities for development as tourist, hunting, fishing and vacation centers; permanent home sites for small farms or ranches for retired people and others; convalescent homes, hospitals, lumber mills, mines, auto courts or motels, winter sports centers, and possibly larger hotel resorts.

The engineer for the Mariposa Utility District stated that another factor holding back the development of Mariposa and vicinity has been the lack of an adequate water supply. This situation is being alleviated by the construction of a dam east of the town for water supply. A sewage disposal plant is contemplated. Also, a new hospital is under consideration.

The applicant believes that if the proposed service is established a period of at least two years would be required to bring about the development and growth of the area and the patronage of the service by the local residents and tourist trade and that he does not expect profitable results during the early stages of the operation. However, he is willing to risk his private resources in this venture and his financial situation appears to be adequate for the purpose.

A county supervisor testified to the effect that one of the vital needs of the area involved is adequate transportation at rates within the means of prospective users, that the county no longer has any railroad service, that the traveling public depends entirely on buses and private automobiles, and that the presently available service does not adequately meet the needs.

Two resolutions of the County Board of Supervisors were introduced (Exhibits Nos. 1 and 2). The first is dated January 2, 1946, and complained of the high rates and inconvenient schedules of the service provided by Yosemite Park and Curry Co., protestant in this proceeding. Following this resolution an informal investigation was conducted by the Commission. Subsequently the present fares were established resulting in the basis of 4 cents per mile between Merced and Mariposa and of 7½ cents per mile between Mariposa and El Portal previously mentioned.

The second resolution of the County Board of Supervisors, dated September 27, 1948, asks this Commission to authorize the establishment of adequate service along the proposed route and supports Lloyd G. Thomson's application.

A letter dated September 30, 1946, from the directors of the Mariposa Chamber of Commerce supporting the request of the applicant was introduced by the President of that organization who was present when it was signed.

In further support of the application there was introduced considerable evidence and testimony of public witnesses indicating inadequacy of the service offered by Yosemite Park and Curry Co. Such testimony showed that the Yosemite Park and Curry Co. has been guilty of practices which were not consonant with the duties and obligations of a common carrier dedicated to serving the public indiscriminately and adequately. It was stated that the rates of protestant were so high that they were beyond the means of the users; that protestant's reservation requirement made it practically impossible for passengers to obtain service particularly in view of poor communication facilities available along the route; that local passengers have been refused service even when seats were available;

that people, including both men, women and children, have been passed up and left standing at marked bus stops for long periods of time; that on scheduled runs, consisting of several sections, the earlier fully loaded buses did not carry appropriate signs stating that additional buses were following (notwithstanding the requirement of the Commission's rules that this be done); that local passengers have been asked to get off buses to accommodate through passengers destined to Yosemite National Park; that no effort had been made to develop local traffic to, from and between points intermediate to the termini; that no agency is maintained at Mariposa, the County seat, nor at any other point in Mariposa County outside of Yosemite Park; that schedules are not displayed at the bus stops; that the reservation requirements and practices are not shown on the schedules nor posted for the information of the traveling public; that all stops along that portion of the route under consideration here are only flag stops with the exception of Bear Creek Lodge, a rest stop; and that protestant is primarily concerned with passengers originating at or destined to Yosemite National Park.

The Executive Vice President and General Manager of the Yosemite Park and Curry Co. described in detail the schedules offered by his Company, the equipment presently available, and the new 29 passenger buses the purchase of which is contemplated. He expressed the expectation that the new buses would make more seats available for local as distinguished from through passengers. He further testified that he had been present throughout the three days of the hearing and had listened to all the testimony presented by the applicant's public witnesses and many of the statements made by them were not within his personal knowledge and that he knew of no complaints having been made by such witnesses, other

than the first resolution passed by the County Board of Supervisors. This witness stated that he had always thought the service rendered by his company had been very good. This executive manages and directs all activities of Yosemite Park and Curry Co. which include, in addition to the transportation system, the hotels, tourist accommodations, and all the other facilities located in the Park. However, as a result of being present at the hearing he testified in response to questions from his own counsel that he intends taking certain steps designed to improve the transportation service immediately. The witness advised that these steps included dispatching of buses from each terminus on each schedule with sufficient vacant seats to handle whatever intermediate traffic is believed to exist; the appointing of an agent at Mariposa, and making it a full stop rather than a flag stop as at present; the cancellation of the reservation requirement on passengers handled to or from a point intermediate to termini on State Highway 140 and covering this point in an amendment to the tariff on file with this Commission; that Yosemite Park and Curry Co. had ample equipment available to place this program in effect; that instructions covering these matters had already been issued to the Superintendent of Transportation (apparently since the hearing started); that instructions had been issued that the drivers be advised of the changes in operating practices, the requirement to make the steps previously indicated, and to pick up passengers, on flag, at any point on the route; that he would make certain that schedules for the information of the public be widely disseminated; and admitted that some lag in this regard has been shown by the evidence.

The Yosemite Park and Curry Co. apparently has been operating for a considerable period of time in substantially the

same manner as they were operating as of the date of the filing of this application. Apparently little or no change had been made in operating practices even to the date of the hearing. However, it is doubtful that any change in schedules, or the addition of new equipment would make the service of protestant satisfactory to present or potential users, or meet their needs, so long as the high fare structure is maintained. We are not here passing on whether the protestant's fares are justified as this question is not before the Commission in this hearing.

It is well established that in a situation such as confronts us here, the service of the Yosemite Park and Curry Co. should be judged as of the date of the filing of the application by Lloyd G. Thomson, and certainly not later than the date of the hearing. It is not sufficient for the holder of a certificate to wait until competition comes knocking at the door before taking steps to improve its service.

The testimony of one of the witnesses on behalf of protestant stated that the number of passengers handled to and from points between Mariposa and El Portal amounted to probably not more than one-half of one per cent of the total passengers handled by the Yosemite Park and Curry Co. on all routes on its entire system. It is obvious from the evidence of record that the passengers to and from Yosemite Park are the major concern of the protestant. It is important to note, as previously indicated, that on its other three routes the only passengers handled are those destined to or originating at the park.

In view of the relatively small number of passengers handled by protestant to and from points between Mariposa and El Portal the loss of or retention of this patronage will have

little effect on the financial results of its operations.

After carefully reviewing the evidence we conclude, and so find, that Yosemite Park and Curry Co., as of the date Lloyd G. Thomson filed this application for a certificate authorizing service to, from and between points between Mariposa and Yosemite Park Line, was not rendering between said points a service satisfactory to this Commission. It is found also that even with the changes outlined by the protestant's Vice President and General Manager the service will not be satisfactory and will not supply the type of service required insofar as this area is concerned.

As to the present application we conclude, after a review of the record, that public convenience and necessity require that the service proposed by applicant herein be authorized.

In his brief, applicant requests that the protestant's authority to handle local passengers between Merced and Yosemite Park Line be revoked and that applicant be authorized to operate over protestant's route between Merced and Mariposa as an alternate route. As these matters were not properly before the Commission in this proceeding they can not be considered.

O R D E R

An application therefor having been made and a public hearing having been held thereon, and based upon the evidence of record and the conclusions and findings set forth in the foregoing opinion,

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 2½ of the Public Utilities Act, for the transportation of passengers and their baggage between Mariposa, Yosemite Park Line and all intermediate points.

(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 Orders Nos. 79 and 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 between Mariposa and Yosemite Park Line via State Highway 140.

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

Dated at San Francisco, California, this 12th day of April, 1948.

R. J. [Signature]
James J. [Signature]
Harold P. [Signature]

[Signature]
Commissioners