

ORIGINAL

Decision No. 47357

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
NORMAN H. ROBOTHAM, doing business)
as TWIN CITIES TRANSIT for an)
enlargement and extension of his)
existing operative right as a)
common carrier of passengers by)
auto stage as defined in Section)
50½ of the Public Utilities Act of)
the State of California.)

Application No. 31967

NORMAN H. ROBOTHAM, doing business)
as TWIN CITIES TRANSIT,)
Complainant)
vs.)
GIBSON LINES, a corporation,)
Defendant.)

Case No. 5291

In the Matter of the Application of)
GIBSON LINES, a corporation, for a)
certificate of public convenience)
and necessity authorizing service)
as a passenger stage corporation)
between Marysville, Ostrom, and)
Wheatland, on the one hand, and)
Camp Beale, on the other.)

Application No. 32445

Orla St. Clair, of St. Clair, Connolly & Cerini, for
Twin Cities Transit, applicant in A.31967, complainant
in C.5291 and protestant in A.32445; William P. Rich
and Reginald L. Vaughan, for Gibson Lines, protestant
in A.31967, defendant in C.5291 and applicant in
A.32445.

O P I N I O N

These proceedings, consolidated for hearing and decision,
involve an amended application by Norman H. Robotham, doing business
as Twin Cities Transit, to reroute his local passenger stage
operations in Marysville and Yuba City and to extend service to
Camp Beale, situated approximately ten miles east of Marysville

(App. 31967); a complaint by Robotham against Gibson Lines (C.5291), alleging unauthorized suspension of service to Camp Beale under certificates granted during World War II (Decs. 35334, 35381, 36886, App. 24439); an application by Gibson Lines to reinstate its authority if the Commission revokes it in this proceeding (App. 32445).

The cases were submitted on briefs following public hearings at Marysville before Examiner Gregory. Robotham has since died. His widow, Grace Grey Robotham, as executrix, has been authorized by the court to operate the business pending probate. (Est. of Robotham, Sutter Co. No. 3515). By appropriate pleading she requests an order of this Commission substituting her for her husband in the pending cases. The request will be granted, with the understanding that immediately upon distribution of the estate the person entitled to possession of the business will file with this Commission an appropriate application for authority to operate, transfer, or discontinue it, as the case may be.

The issue relating to unauthorized suspension of operations by Gibson Lines emerges from the reduction by that carrier in June, 1947, of its scheduled service between Marysville and Camp Beale, following deactivation of the camp, to an on-call, two round trips daily basis for 20 or more persons, and reinstatement of scheduled service on May 5, 1951, after reactivation of the camp and the filing of Robotham's application. These service changes were effected by advice letters to the Commission accompanied by revised time tables transmitted in assumed compliance with applicable General Orders. (G. O. 93-A, Part IV, 43 CRC 129, 149; revised, effective Jan. 1, 1951, by G. O. 98, Part 19, 50 CPUC 264.)

Twin Cities argues that Gibson Lines, in effect, abandoned its right to serve Camp Beale in 1947 by reducing its service to an on-call basis without prior Commission authority and cites Gibson Lines-Transfer-Burlington Transp. Co., 49 CPUC 774 (1950) and other Commission decisions involving abandonment of carrier service in support of its position. Gibson Lines urges that it had no intention of abandoning its right to serve the camp; that it acted in compliance with the rules above mentioned and thereby had "requisite authority" for effecting changes in service; that its intent not to abandon is evidenced by the conduct of its successor, Burlington Transportation Company, following acquisition of the Gibson Lines' stock in 1948, in closely following the situation at Camp Beale to determine the facility's transportation needs; that it has at all times held itself out to render the service called for by its filed schedules.

The Gibson-Burlington transfer case, upon which complainant chiefly relies, is distinguishable from the present one. In that case, Gibson Lines had been directed by a previous decision (Dec. 38789, App. 26661) to reinstate scheduled service between Rio Vista Junction and Suisun after an authorized suspension. The service was resumed but was ultimately placed on an on-call basis for five or more persons. In refusing its assent to the transfer of that portion of Gibson Lines' operative rights, the Commission said (49 CPUC @ 776):

"Such reduction in service is contrary to the provisions of Decision No. 38789 above referred to. A reduction in passenger stage service to an 'on-call' basis without requisite Commission authority is tantamount to an abandonment of that service and renders the operative authority subject to revocation."

Complainant does not assert, nor does the record show, that defendant failed to follow the procedural requirements of General Orders Nos. 93-A and 98 in first reducing its Camp Beale service to an on-call basis and later reinstating scheduled operations. Nor can we find from the evidence the intent which, coupled with conduct, compels the conclusion that abandonment has taken place. Complainant has not sustained the burden of proof on the issue of abandonment. The complaint, therefore, will be dismissed.

The only other issue to be decided, in view of the disposition made of the complaint, is that presented by the Twin Cities Transit application. It is urged that the proposals of that carrier, which include improvements in local service, more comprehensive operations than those of Gibson Lines within and between the twin cities and Camp Beale, and a fare structure which, unlike Gibson Lines', takes into account intermediate point service between Marysville and Camp Beale, contemplate service superior to that now rendered by Gibson Lines in the area here involved.

Gibson Lines argues that it would be contrary to the public interest to have two competing carriers serving between Marysville and Camp Beale, especially since it lost about \$2,500 from May 5 to August 31, 1951, in its operations between those points. The Commission's decision in Re Tyhurst, 47 CPUC 667, is cited in support of this contention. But in that case, Tyhurst, who had not been in the bus business for some time and who then owned no buses or other facilities, was seeking, primarily for personal reasons, to recapture an operative right, sold to others, under which service had ceased because of financial difficulties

suffered by Tyhurst's vendee. Tyhurst, moreover, had proposed an almost exact duplication of Gibson Lines' routes and schedules between Sacramento and West Sacramento.

Twin Cities Transit, by its present application, is in no sense offering a service similar to that of Gibson Lines. Instead, it proposes: to augment and reroute its operations and facilities within and between Yuba City and Marysville, serving both the Southern Pacific and Western Pacific stations; to acquire a terminal building, approximately 80 x 120 feet, located in the business section of Marysville; to purchase additional urban type buses for both local and Camp Beale service; to establish single and commutation fares between both Yuba City and Marysville and Camp Beale, with lesser fares between the junction of Linda and North Beale Roads and the twin cities; finally, to coordinate its improved local operation between Yuba City and Marysville with the Camp Beale extension, so as to provide a single-line service for civilian employees in the two cities and others residing at points between Marysville and Camp Beale along applicant's proposed route.

Gibson Lines, on the other hand, is operating what is essentially a shuttle service between Camp Beale and Marysville only, with service to and from Yuba City limited to its infrequent through schedules north or south of the twin cities. Thus, a passenger desiring to travel between Yuba City and Camp Beale would have to change at Marysville from a Twin Cities Transit bus or infrequent Gibson Lines through bus to the Camp Beale shuttle bus and, presumably, would have to pay the combination fare. Moreover, Gibson Lines proposes to use the same Marysville terminal it used during World War II, which, according to the record, was inadequate

for waiting passengers during inclement weather. Gibson Lines, furthermore, does not offer lower fares at intermediate points between Marysville and Camp Beale.

In our opinion, the Tyhurst case is clearly distinguishable from the present one and will not support Gibson Lines' contention.

The Twin Cities Transit application was supported by residents and business men of Yuba City and Marysville, including the local passenger traffic agent of Western Pacific Railroad, and by other persons residing between Marysville and Camp Beale. These witnesses testified to their need for a direct bus service to and from both Yuba City and Marysville, including sections of West Yuba City and East Marysville, which are not served by Gibson Lines.

General Oscar B. Abbott, former Commanding General of Camp Beale from 1944 to 1946, who expects to be associated with Twin Cities Transit if its application is granted, also testified in support of the proposal. According to his testimony, there were three problems relating to transportation at Camp Beale during World War II that Gibson Lines could not solve, despite its excellent service in other respects. The first was the problem of multiple fares from Camp Beale to Yuba City plus the inconvenience of transferring between Gibson Lines' and Twin Cities' vehicles. The second was that the fare from Sacramento to Camp Beale was greater than that from Sacramento to Marysville. The third was lack of adequate terminal facilities at Marysville. General Abbott, moreover, concurred with the Western Pacific's representative in respect to the latter's testimony that it would be preferable for a local bus operator to bring prospective long-line passengers to Marysville and thus afford all transportation agencies serving that city an opportunity to compete on a more equal footing for traffic

to distant points. In that respect, however, Gibson Lines now occupies a somewhat more favorable position than its rail and bus competitors who do not serve the camp directly.

We are of the opinion, and find as a fact, that public convenience and necessity require the improved routing of Twin Cities Transit's service within and between Yuba City and Marysville and the extension of service by that carrier between Marysville, Camp Beale and intermediate points, as proposed in its amended application herein. The authority herein granted will be carried into effect by the issuance of a new certificate encompassing applicant's present rights and those authorized herein.

We recognize, of course, that with two passenger carriers offering service between Marysville and Camp Beale there is bound to be competition between them to some extent. But, in reaching the conclusion to grant the application of Twin Cities Transit, we have been persuaded by the fact, made clear by the record, that the needs of persons residing in Yuba City and Marysville, as well as at points intermediate to Marysville and Camp Beale, including persons living in Yuba City who have occasion to travel to Camp Beale, would appear to be met in more adequate fashion by the proposals of the local operator, if carried out, than by the existing service afforded by Gibson Lines between the points essentially involved herein.

We also have in mind the fact that the Twin Cities application to serve Camp Beale antedates Gibson Lines' resumption of scheduled service by about five months. While priority in the filing of an application would not, of itself, confer a right superior to that accorded by the valid resumption of scheduled service under outstanding certificates, such priority in filing,

coupled with a more comprehensive offer of service, is entitled to be weighed in favor of the carrier who is alert to potential or actual transportation needs and then proceeds to take responsive action to meet them.

O R D E R

Public hearings having been held in the instant consolidated proceeding, evidence and argument having been received and considered, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Grace Grey Robotham, as executrix of the Estate of Norman H. Robotham, deceased, be and she hereby is substituted in each of the three proceedings consolidated herein for hearing and decision, in the place and stead of said Norman H. Robotham, deceased, and, as such executrix hereby is granted a certificate of public convenience and necessity authorizing the establishment and operation of service as a "passenger stage corporation", as said term is defined by Section 226 of the Public Utilities Code of the State of California, between Yuba City, Marysville and Camp Beale, situated approximately ten miles east of Marysville, and all intermediate points, in the place and stead of the operative rights acquired by Norman H. Robotham pursuant to Decision No. 40317, in Application No. 28419, Decision No. 41178, in Application No. 28946 and Decision No. 43752, in Application No. 30770, which rights are 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. Within 30 days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- b. Within 60 days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs and time schedules satisfactory to the Commission.
- c. Subject to the authority of the Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

Commencing at the intersection of 18th and Ramirez Streets, in Marysville, thence north on Ramirez to 19th, east on 19th to Covillaud, south on Covillaud to 15th, west on 15th to Swezy, south on Swezy to 12th, west on 12th to B, north on B to 18th, east on 18th to Ramirez; from intersection of 12th and B Streets, south on B to 7th, east on 7th to Chestnut, south on Chestnut to 6th and Southern Pacific Company Station; west on 6th to C, north on C to 7th, east on 7th to B; from intersection of 7th and B Streets, south on B to 3rd, west on 3rd to H, north on H to 4th, west on 4th and via available street to Western Pacific Railroad Station; from intersection of 4th and H, north on 4th to 5th, east on 5th to B; from intersection of 3rd and F, north on F to 4th, east on 4th to E; from intersection of 3rd and E, north on E to 10th; from intersection of 6th and E, east on 6th to C; from intersection of 6th and D, south on D to 5th; from intersection of 5th and H, north on H to 14th, east on 14th to G, south on G to 13th, west on 13th to H; from intersection of 10th and E, west on 10th across the new Feather River Bridge and Sumner Street, in Yuba City, to Shasta Street; south on Shasta to Center, west on Center to Plumas, north on Plumas to W. Forbes Avenue, west on West Forbes Avenue to Cooper Avenue, south on Cooper Avenue to Kimball Avenue, west on Kimball Avenue to Gray Avenue, south on Gray Avenue to Bridge Street, east on Bridge to Clark Avenue, south on Clark Avenue to Franklin Avenue, east on Franklin Avenue to Percy Avenue, north on Percy Avenue to B Street, west on B Street to Clark Avenue; from intersection of B Street and Cooper Avenue, north on Cooper Avenue to Kimball

Avenue; from intersection of B Street and Percy Avenue, east on B Street to Plumas Avenue, north on Plumas Avenue to Center Street; from intersection of Bridge Street and Plumas Avenue, east on Bridge Street, across old Feather River Bridge and on 5th Street, in Marysville, to H Street; from intersection of Bridge and Sutter Streets, in Yuba City, north on Sutter to Sumner and Feather River Bridge via approaches; from intersection of 3rd and E Streets, in Marysville, south on E and via U. S. Highway 99-E and North Beale Road to Camp Beale.

Vehicles may be operated in either direction over the above routes.

(3) That Case No. 5291 be and it hereby is dismissed.

(4) That Application No. 32445 of Gibson Lines be and it hereby is dismissed.

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

Dated at San Francisco, California, this 24th day of June, 1952.

P. J. [Signature]
President
Justice J. Galloway
Harold K. Kuba
[Signature]
[Signature]
Commissioners