

ORIGINALDecision No. 71897

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of YOSEMITE PARK AND
 CURRY CO. (Yosemite Transportation
 System) for authority to transport
 express between Merced and Yosemite
 National Park, California, and to
 establish rates and regulations
 governing the same.

Application No. 48614
 (Filed July 12, 1966)

Brobeck, Phleger & Harrison, by George E. Davis,
 for Yosemite Park and Curry Co., applicant.
Thomas R. Kerr, for Mariposa Express and
F. S. Kohles, for Valley Express Co. and Valley
 Motor Lines, Inc., protestants in Application
 No. 48614 and interested parties in Application
 No. 48613.
J. C. Kaspar, Arlo Poe and H. F. Kollmyer, for
 California Trucking Association, interested party.
Robert W. Stich and Joseph C. Matson, for the
 Commission staff.

O P I N I O N

Yosemite Park and Curry Co., a passenger stage corporation,
 requests that its certificate of public convenience and necessity
 be amended so as to permit the transportation of express freight in
 conjunction with its passenger stage operations between Merced and
 Yosemite National Park and to remove existing restrictions on
 express service between Merced and Mariposa. Tariff rates and
 rules proposed by applicant for the sought express service are
 predicated upon the distance rates established in Greyhound Lines,
 Inc. (Western Greyhound Division) Local, Interdivision and Joint
 Express Tariff No. 2-14-B, Cal. P.U.C. No. 2, effective December 7,
 1964.^{1/}

^{1/} Decision No. 68233, dated November 17, 1964, in Application
 No. 46757, as amended (Unreported).

Public hearing was held in this matter on a common record with Application No. 48613 before Examiner Gagnon at Merced on October 14, 1966. Submission of Application No. 48614 was made subject to the receipt of applicant's late filed Exhibit No. 5 and rebuttal replies thereto, which have been received. Disposition of Application No. 48613 has been accomplished by a separate order.^{2/}

Applicant's principal business is the operation of hotels and recreational facilities in Yosemite National Park (the Park), under contract with the Secretary of the Interior. Incidental to its principal business, applicant operates as a passenger stage corporation and as a highway common carrier between Merced and the Park and intermediate points, with certain exceptions, along State Route No. 140. All for-hire transportation of property is performed by applicant in the capacity of a highway common carrier. Applicant's present authority as a passenger stage corporation is restricted to transportation of passengers and their baggage. Under existing certificate restrictions applicant may transport property between the Park and El Portal on the one hand and all points along State Highway 140 to Merced on the other hand. It may not carry property, other than newspapers, between Merced and Mariposa or any other point along State Route No. 140 closer to Merced than Midpines. Property may be transported by applicant in its truck equipment or on its passenger buses, subject to the availability of space after provision for passengers and their baggage.

Applicant now seeks a certificate authorizing it, as a ~~passenger stage corporation,~~ to transport express between Merced, Mariposa, El Portal and Yosemite National Park. The specific

^{2/} Decision No. 71622, dated November 29, 1966, in Application No. 48613.

changes sought in applicant's existing operating authority are (1) to permit transportation of express on buses as a passenger stage corporation in addition to its present highway common carrier authority; and (2) to permit express service on buses between Merced and Mariposa.

The sought express service would be offered on each of applicant's buses which operate between Merced and the Park, subject to the availability of space after provisions for passengers and their baggage, in accordance with schedules on file with the Commission. Such schedules indicate the following daily service:

<u>Station</u>	<u>Schedule 1 - Schedule 2</u>
Merced	Lv. 1:00 p.m.-Lv. 3:30 p.m.
Mariposa	Ar. 2:00 p.m.-Ar. 4:30 p.m.
El Portal	Ar. 3:05 p.m.-Ar. 5:35 p.m.
Yosemite Valley	Ar. 3:40 p.m.-Ar. 6:10 p.m.
Yosemite Valley	Lv. 8:40 a.m.-Lv. 11:50 a.m.

Applicant contends that the public interest would be better served if its authority as a passenger stage corporation were expanded so as to permit the handling of local and joint express traffic. It was explained that shipments of property presently interlined between applicant, operating as a highway common carrier, and Western Greyhound Lines, a passenger stage corporation, must be handled as two separate shipments.

Assertedly, there is no express service available at present between the points involved. Applicant contends that there is a public need for an express package service between Merced and Mariposa which would serve as an alternative or supplement to the highway common carrier service of Mariposa Express. It was

explained that, under the existing daily schedules, Mariposa Express trucks leave Merced at 6:00 a.m. and 10:00 a.m. for Mariposa. Shipments via Mariposa Express must be tendered prior to 10:00 a.m. in the event same day delivery at Mariposa is desired. Under the proposed express service any Merced shipper who is unable to tender his Mariposa shipments before 10:00 a.m. but prior to 3:30 p.m. could obtain same day delivery. It is alleged that such service would be of substantial convenience to shippers of cut flowers and auto parts. Copies of letters received by applicant from prospective shippers expressing their support of the proposed express service were attached to the application. Similar shipper support for the requested authority was presented through oral testimony. Western Greyhound Lines has also expressed its support of applicant, including the desire to establish joint through express service should the sought authority be granted.

Mariposa Express, a highway common carrier, protests the granting of the sought authority. Such protest is supported by Valley Express Co. and Valley Motor Lines, Inc., as interline common carriers maintaining joint through rates and services with Mariposa Express. Protestants argue that the sought express service is unnecessary and not essential to the public needs of the rural communities involved. It is argued that only in emergency situations are the Merced shippers unable to tender their Mariposa shipments in time to meet Mariposa Express morning schedules. Mariposa Express stated that it is not economically feasible or practical for it to provide additional service to Mariposa under the existing available volume of traffic. While the proposed afternoon service of applicant may be considered as a supplement to the existing morning service of Mariposa Express, the latter carrier is fearful that such supplementary service will erode its existing Mariposa traffic.

The highway common carrier services of both applicant and Mariposa Express between the points involved differ substantially from the proposed express service. For example, the highway common carrier service of Mariposa Express includes pick-up and delivery service and shipments are generally unrestricted as to size and weight; whereas the express service proposed by applicant, operating as a passenger stage corporation, will not include pick-up and delivery service, shipments must not weigh in excess of 100 pounds and all packages must conform to limitations as to size.

The highway common carrier services of Mariposa Express are utilized by the various shippers who testified in support of applicant's proposed additional express service. While they are assertedly well satisfied with the service rendered by Mariposa Express, it is claimed that the proposed express service, via the readily available afternoon bus schedules of applicant, is highly desirable. It should also be noted that Yosemite Park and Curry Co. use the services of Mariposa Express in connection with its principal business activities as operators of Yosemite National Park.

We are persuaded that the limited express service proposed by applicant will have but little, if any, effect upon the future operations of protestants. After consideration, the Commission finds that:

1. Applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the proposed express service.

2. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

3. The express tariff rules and rates proposed by applicant are suitable and proper, except for shipments of skis which should not be made subject to the proposed package requirements, and are hereby found to be justified.

Applicant is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Yosemite Park and Curry Co., a corporation, authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the transportation of express between the points and over the route set forth in Appendix A, attached hereto and hereby made a part hereof, as an enlargement of and consolidation with the certificate granted by Decision No. 31396, as amended, dated October 31, 1938.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-B. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-B, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

3. Applicant is authorized to establish the express rates and tariff rules to the extent previously found to be justified herein.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1967.

[Signature] President
[Signature]
[Signature]
[Signature]

 Commissioners

Commissioner WILLIAM SYMONS, JR. did not participate in the disposition of this proceeding.

YOSEMITE PARK and CURRY CO., (a corporation)
doing business as
YOSEMITE TRANSPORTATION SYSTEM

Yosemite Park and Curry Co., a corporation, doing business as Yosemite Transportation System, a passenger stage corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, which is in addition to and not in lieu of previously granted authority, is authorized to transport express subject to the following conditions and restrictions:

1. Express may be transported between Merced and Yosemite Valley and the intermediate points of Mariposa and El Portal via State Highway 140.
2. Express shall be transported in passenger carrying vehicles only.
3. Express accepted for transportation shall be limited to one hundred (100) pounds or less per shipment.
4. Restrictions.
 - (a) Express shipments originating at Mariposa and destined for El Portal shall not be transported.
 - (b) Express shipments originating at El Portal and destined for Mariposa shall not be transported.