

Decision 84-12-017 December 5, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
Own motion into the operations,)
service and practices of Amador)
Stage Lines, Inc.)
_____)

I. 84-06-016
(Filed June 6, 1984)

Alexander B. Allen, for Amador
Stage Lines, Inc., respondent.
Alberto Guerrero, Attorney at
Law, for the Commission staff.

O P I N I O N

This investigation was instituted to investigate the operations, service, and practices of Amador Stage Lines, Inc. (Amador) and determine:

1. Whether respondent Amador has discontinued passenger service on intrastate routes without authorization by order of the Commission as required by CPUC General Order 98-A - Section 11.42 and Rule 15(f) of the CPUC's Rules of Practice and Procedure.
2. Whether respondent Amador should be ordered to provide passenger service on routes that have been discontinued without Commission authorization.
3. Whether respondent Amador's current certificated authority should be modified, suspended, or revoked.
4. Whether any other order or orders that may be appropriate should be enacted in the lawful exercise of the Commission's jurisdiction.

Hearing was held July 2, 1984 in San Francisco. The Commission staff requested that Amador be ordered to reinstate the suspended service and file an application conforming to the Commission's Rules of Practice and Procedure should it wish to discontinue service.

In addition to several letters supporting the reinstatement of service, mailgrams requesting restoration of service were received from the Amador County Chamber of Commerce and Senior Services Inc., a local service organization.

Roy Evans, associate transportation engineer for the Commission staff testified that a request for voluntary suspension of service was received from Amador sometime in March 1983. In response to that request the staff advised Amador by letter dated April 8, 1983, that suspension of service required filing a formal application and Commission approval. He stated that the April 8 letter indicated service could not be terminated without Commission approval. On April 14, 1983 the staff advised Amador by letter that service could not be suspended by Commission resolution, as it had previously advised, because a protest had been received. That letter reiterated that to suspend service a formal application must be filed. On December 15, 1983 the staff advised Amador that unless service was restored as pointed out in the April 8 and April 14 letters, it would recommend to the Commission that formal action be taken for unauthorized termination of service. Evans then recommended that Amador be ordered to resume the suspended service and file the application necessary to abandon service.

On cross-examination Evans stated that his investigation was limited to determining whether the certificated service was being performed and that he made no determination of whether there was a need for the service or the number of passengers that were carried.

Testifying on behalf of Amador was its vice-president Alexander B. Allen who acknowledged that the runs in question had been discontinued effective April 15, 1983 as indicated on the notice of suspension filed March 15, 1983. He stated that the Jackson-to-Sacramento and Jackson-to-Stockton runs had been operated by Amador since July 1, 1966 but were never well patronized. He stated that sometime in late 1981 or early 1982 Caltrans requested Amador to install wheelchair lifts on its buses and that a small subsidy would then be provided to offset operating costs. In early 1983 Caltrans notified Amador that beginning June 30, 1983 the contract providing the subsidy would not be renewed and the subsidy was discontinued effective June 30, 1983. He stated that the Caltrans subsidy had only offset a portion of the driver's salary and its cancellation, combined with the low ridership, led to the decision to terminate the runs in question. Allen introduced Exhibit 2 which shows that from May 1982 through April 1983 the Jackson-to-Sacramento and return run averaged 11 and 7 passengers respectively and the Jackson-to-Stockton and return run averaged 2 and 15 passengers respectively. He stated that with this low ridership coupled with the loss of the Caltrans subsidy, in March 1983 he asked the staff what steps were necessary for Amador to abandon the two losing runs. He did not state which staff member he talked to. He stated that the instructions received from the staff were the same as were received when service from Sacramento to the San Francisco International Airport was discontinued. He stated he could not understand why the Commission would allow termination on one route and not another when the same procedure is followed. Finally, he stated that the staff's April 14, 1983 letter advising that an application must be filed was not received until a week or two after the service had been suspended and that with no further word until December 1983 Amador assumed the notice of termination had been accepted.

Discussion

In accepting the certificate of public convenience and necessity to provide the service authorized, Amador agreed to comply with the Public Utilities Code and the Commission's rules and regulations. Clearly this was not done; the question is whether ordering the resumption of service after some 15 months, and then processing subsequent abandonment application, if properly filed, is the answer.

Late-filed Exhibit 3 shows that the request for voluntary suspension was forwarded to the staff by a cover letter from Amador dated March 15, 1983 and received in the Passenger Operations Branch April 6, 1983. The only written communications in the record from the staff to Amador are dated April 8 and 14, 1983 and December 15, 1983. There is no record of any communication between the staff and Amador between April 14, 1983 and December 15, 1983. Although Amador stated that it assumed that its notice of termination had been accepted, there is nothing in the record to indicate any such acceptance. In fact, Amador ignored the staff's letter of April 14, 1983 advising Amador that service could not be suspended without an application. Had we been advised of Amador's unauthorized suspension of service, we would have ordered it to resume service forthwith. Even though Amador has not operated this service for over 15 months, nevertheless, it has failed to comply with Commission rules for discontinuing intrastate service by passenger stage corporations. As stated in General Order 98-A, Section 11.42, after providing notice for a reduction in service, if a protest is filed or if the Commission (through its staff) otherwise requires it, the carrier must file a formal application requesting prior Commission authority before the carrier may reduce such operations. In this instance, both a protest was filed and the Commission staff required Amador to file a formal application, yet it refused to do so.

When a carrier, such as Amador, seeks to reduce service the carrier's application must comply with the requirements of Rule 15(f) of the Commission's Rules of Practice and Procedure. Among the contents of such applications, the carrier must provide the revenues, variable costs, subsidies, and traffic data for the affected service. Under Rule 21(k) of the Commission's Rules of Practice and Procedures this application must be served upon all county and city governmental entities and regional transportation planning agencies which would be affected by the discontinuance of service.

The purpose of these Commission rules is to provide to affected parties notice of the carrier's justification for discontinuing such service. While the Commission does not intend to require continued operations which are unprofitable, it must nevertheless allow affected parties the opportunity to dispute in a hearing the carrier's claims of losses or to offer a sufficient subsidy that would make the carrier's operations profitable.

Amador's refusal to comply with these Commission rules has deprived the affected county and city governmental entities, the affected regional transportation planning agencies and the citizens of Sacramento, Jackson and Stockton of the right to oppose the discontinuance of this service. Thus, unless and until Amador files an application that complies with Rule 15(f) and the Commission ultimately grants Amador authority to discontinue such operations, its suspension of such operations is unlawful.

Findings of Fact

1. Amador is authorized to transport passengers and their baggage between Sacramento, Jackson, and Stockton and intermediate points.
2. Amador notified the Commission staff in March 1983 that it was suspending service between Jackson and Sacramento and Jackson and Stockton effective April 15, 1983.
3. Amador has provided no service between these points since that date.
4. The staff notified Amador by letters dated April 8 and 14, 1983 that because a protest against suspension had been received, a formal application must be filed and approved before suspension could take place.
5. The notice of suspension of service without Commission approval was received by Amador two to three weeks after service was suspended on April 15, 1983.
6. There is no record of any written communication between the staff and Amador between April 14, 1983 and December 15, 1983.
7. Amador has not filed with the Commission a formal application to discontinue service between Jackson and Sacramento and Jackson and Stockton.
8. The Commission has not issued an order authorizing Amador to discontinue service between Jackson and Sacramento and Jackson and Stockton.

Conclusions of Law

1. Amador has failed to comply with the requirements in General Order 98-A (Section 11.42), Rule 15(f) and Rule 21(k) of the Commission's Rules of Practice and Procedure which pertain to discontinuance of intrastate passenger stage operations. ✓

2. Amador's suspension of service between Jackson and Sacramento and Jackson and Stockton is without Commission authorization and is unlawful.

3. Amador should be placed on notice that any future violation of the Commission's general orders and/or rules will be dealt with severely.

ORDER ✓

IT IS ORDERED that:

1. Amador Stage Lines, Inc. must provide passenger service between Jackson and Sacramento and Jackson and Stockton unless and until it receives Commission authorization to discontinue such service.

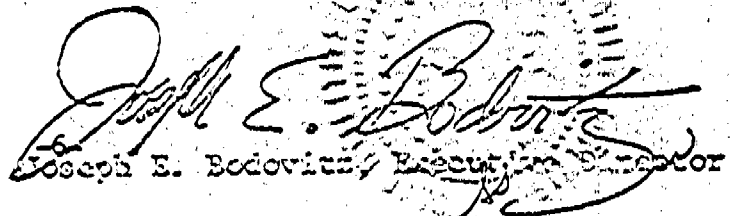
2. Amador is placed on notice that future violations of this order, the Commission's General Orders and/or rules will not be tolerated.

This order becomes effective 30 days from today.

Dated December 5, 1984, San Francisco, California.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
FREDERICK R. DUDA
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

T/TKS/yo/md

Appendix A
(Dec. 73990)

AMADOR STAGE LINES, INC.
(PSC - 389)

Second Revised Page 1
Cancels
First Revised Page 1

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Amador Stage Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, baggage and express shipments (not exceeding 100 pounds in weight) between Jackson and the California-Nevada Stateline at South Lake Tahoe and intermediate points and between Sacramento and San Francisco International Airport and over the routes hereinafter described, subject to the following conditions and restrictions:

- (a) No passengers or express shipments shall be transported having both point of origin and destination at or between the junction of California Highway 89 and U.S. Highway 50, on the one hand, and the California-Nevada Stateline, on the other hand.
- * (b) (Deleted)
- (c) When route descriptions are given in one direction they apply to operation in either direction unless otherwise indicated.
- (d) No express shipments shall be transported between Sacramento and San Francisco International Airport.

Issued by California Public Utilities Commission.

*Deleted by Decision: S4 12 017, I.84-06-016.

T/TKS/yo/md

Appendix A
(Dec. 73990)

AMADOR STAGE LINES, INC.
(PSC - 389)

Second Revised Page 2
Cancels
First Revised Page 2

- (e) Service authorized under Route 4 shall be limited to the transportation of persons and their baggage with origin or destination at Sacramento, on the one hand, and San Francisco International Airport, on the other hand.

SECTION 2. ROUTE DESCRIPTIONS.

Route No.

*1. (Deleted)

*2. (Deleted)

3. JACKSON-SOUTH LAKE TAHOE

Commencing at Jackson; thence via California Highway 88 to Pickett's Junction; thence via California Highway 89 to Meyers; thence via U.S. Highway 50 to the California-Nevada Stateline.

4. SACRAMENTO-SAN FRANCISCO INTERNATIONAL AIRPORT

Commencing from the City of Sacramento at "K" Street between 29th and 30th Streets, thence over and along "K" Street, 30th Street, "L" Street, departing

Issued by California Public Utilities Commission.

*Deleted by Decision S4 12 017, I.84-06-016.

Discussion

In accepting the certificate of public convenience and necessity to provide the service authorized, Amador agreed to comply with the Public Utilities Code and the Commission's rules and regulations. Clearly this was not done; the question is whether ordering the resumption of service after some 15 months, and subsequent abandonment, is the answer.

Late-filed Exhibit 3 shows that the request for voluntary suspension was forwarded to the staff by a cover letter from Amador dated March 15, 1983 and received in the Passenger Operations Branch April 15, 1983. The only written communications in the record from the staff to Amador are dated April 8 and 14, 1983 and December 15, 1983. There is no record of any communication between the staff and Amador between April 14, 1983 and December 15, 1983. Although Amador stated that it assumed that its notice of termination had been accepted, there is nothing in the record to indicate any such acceptance. In fact, Amador ignored the staff's letter of April 14, 1983 advising Amador that service could not be suspended without an application. Had we been advised of Amador's unauthorized suspension of service, we would have ordered it to resume service forthwith. However, to order resumption of service after a lapse of over 15 months, with a concurrent application to abandon service, is not logical. Accordingly, we will not order that service be resumed. While not imposing any sanctions in this instance, Amador is placed on notice that disregard and violation of the Commission's general orders and rules will not be tolerated in the future and the staff will be directed to closely monitor Amador's operations and service.

Findings of Fact

1. Amador is authorized to transport passengers and their baggage between Sacramento, Jackson, and Stockton and intermediate points.

2. Amador notified the Commission staff in March 1983 that it was suspending service between Jackson and Sacramento and Jackson and Stockton effective April 15, 1983.

3. Amador has provided no service between these points since that date.

4. The staff notified Amador by letters dated April 8 and 14, 1983 that because a protest against suspension had been received, a formal application must be filed and approved before suspension could take place.

5. The notice of suspension of service without Commission approval was received by Amador two to three weeks after service was suspended on April 15, 1983.

6. There is no record of any written communication between the staff and Amador between April 14, 1983 and December 15, 1983.

7. It is not logical to order resumption of service while concurrently entertaining an application for abandonment of the routes in question.

8. Amador's certificate of public convenience and necessity should be modified to reflect the cessation of service by Amador between Sacramento-Jackson and Jackson-Stockton.

Conclusions of Law

1. Amador's certificate of public convenience and necessity should be modified deleting the Sacramento-Jackson and Jackson-Stockton routes.

2. Amador should be placed on notice that any future violation of the Commission's general orders and/or rules will be dealt with severely.

3. This investigation should be discontinued.

O R D E R

IT IS ORDERED that:

1. Amador Stage Lines, Inc. certificate of public convenience and necessity authorizing it to operate as a passenger stage corporation is modified by Second Revised Pages 1 and 2 to the Appendix A granted by Decision 73990, attached.

2. Amador is placed on notice that future violations of the Commission's general orders and/or rules will not be tolerated.

3. This investigation is discontinued.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

Decision 84 12 017

DEC 5 1984

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3. Whether respondent Amador's current certificated authority should be modified, suspended, or revoked.
4. Whether any other order or orders that may be appropriate should be enacted in the lawful exercise of the Commission's jurisdiction.

Conclusions of Law

1. Amador has failed to comply with the requirements in General Order 98-A (Section 11.42), Rule 15(f) and Rule 21(k) of the Commission's Rules of Practice and Procedure which pertain to discontinuance of intrastate passenger stage operations.
2. Amador's suspension of service between Jackson and Sacramento and Jackson and Stockton is without Commission authorization and is unlawful.
3. Amador should be placed on notice that any future violation of the Commission's general orders and/or rules will be dealt with severely.

O R D E R

IT IS ORDERED that:

1. Amador Stage Lines, Inc. must provide passenger service between Jackson and Sacramento and Jackson and Stockton unless and until it receives Commission authorization to discontinue such service.
2. Amador is placed on notice that future violations of this order, the Commission's General Orders and/or rules will not be tolerated.

This order becomes effective 30 days from today.

Dated DEC 5 1984, San Francisco, California.

DONALD VIAL
President
VICTOR CALVO
PRISCILLA C. GREW
WILLIAM T. BAGLEY
FREDERICK R. DUDA
Commissioners