

L.M.

Decision No. 20195

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
(1) DAN A. GARIBALDI for certificate
of public convenience and necessity
to operate (2) passenger, express
and baggage service as a common
carrier between Jackson, Calif., and
Mokelumne Hill, Valley Springs, Camp
Seco and Pardee Dam, Calif.

APPLICATION NO. 14704

A. L. Pierovich, for Applicant.

BY THE COMMISSION:

O P I N I O N

Dan A. Garibaldi has made application to the Railroad Commission for a certificate of public convenience and necessity to operate an auto stage service for the transportation of passengers, baggage and express between Jackson and Pardee Dam.

A public hearing herein was conducted by Examiner Williams at Jackson.

Applicant herein is proprietor of a garage business at Jackson, and proposes this service to transport labor between Jackson and Pardee Dam, a water project of the East Bay Municipal Utility District, which is now under construction. Applicant proposes to use in the service 7-passenger touring car vehicles and to charge the fares shown in Exhibit "A" attached to the application. Time schedules are also shown in Exhibit "B."

Applicant stipulated at the outset of the hearing that he would transport no passengers between Mokelumne Hill and Valley Springs, which points are served by Mokelumne Hill Auto Stage Company. At the time of the hearing, applicant indicated that the heated season prevented the employment of a large force at the dam site, but that at an early date there would be an active demand for labor, and a great deal of this would either originate at or be transported from Jackson to the dam site. Applicant asked leave to amend his application to the extent of transporting passengers and baggage from Jackson to the dam site and return on Saturdays and Sundays, the trips to be increased to daily service whenever existing conditions justify.

It appears from the record that many laborers seeking employment at the dam come to Jackson and find themselves without a public transportation system to convey them. This deficiency applicant asks to fill by the service proposed. He produced no witnesses at the hearing except himself, and likewise there were no protestants. He explained that the traffic he would handle is mostly labor and transient; that he was unable to procure such witnesses, and that his offer to establish the service was in anticipation of a demand. While the testimony was wholly confined to that of the applicant himself, it appears that the service is not one which should be strictly judged by the rule that the mere offer of an applicant is not sufficient evidence for the granting of a certificate. Under these circumstances, applicant offers to provide a public service on schedule or demand, at the rates proposed in the application, for those seeking employment at the dam via Jackson, and there being no other service established, and the service proposed not conflicting with any other public carrier, it is obvious that it can

well be established with the understanding that applicant will maintain such schedules as are necessary to promptly and efficiently transport that portion of the public wishing to go between termini. In addition to serving Pardee Dam, applicant proposes to carry passengers to Mokelumme Hill and to Valley Springs, but not between the two points.

We therefore find as a fact that public necessity and convenience require the establishment of the service proposed by applicant herein, and a certificate will be granted to him in the following Order.

Dan A. Garibaldi is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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

Dan A. Garibaldi having made application to the Railroad Commission for a certificate of public convenience and necessity to operate automobile stage service for the transportation of passengers, their baggage and express between Jackson and Pardee Dam, a public hearing having been held, and the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the establishment of the service as proposed herein for the transportation of passengers, their baggage and express between Jackson and Pardee Dam, serving intermediately the points of Mokelumme Hill, Valley Springs, Camp Seco and Camp Pardee; provided, however, that applicant shall transport no local passengers between Mokelumme Hill and Valley Springs, over and along the following route:

Via main county highways to Mokelumne Hill in Calaveras County; thence to Valley Springs; thence to Camp Seco by a detour, returning over the same detour, to main county highway to Camp Pardee, and returning over the same identical route, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted, within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned, unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein, unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of September, 1928.

Leon Whitell
Ch. Senary
Ernest C. St.

Commissioners