

Decision No. 20490

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 E. A. JONES, operating under the)
 name of MARYSVILLE-NEVADA CITY AUTO)
 STAGE, for certificate of public)
 convenience and necessity to operate)
 automobile express and excess baggage)
 service between Nevada City and)
 Marysville and intermediate points.)

Application
 No. 15194

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

E. A. Jones has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile service for the transportation of express and baggage between Nevada City and Marysville and intermediate points.

Applicant proposes to charge rates as set forth in Exhibit A, attached hereto and operate in accordance with a schedule shown in Exhibit "B", also attached.

Applicant Jones is now operating between Nevada City and Marysville and intermediate points and for several years has transported persons and property, charging fares and rates for the service in accordance with tariffs on file with the Railroad Commission. A recent check of said tariffs revealed that the line was established by one Conlin through operation prior to May 1, 1917. Conlin's original tariff covered only attempted to passenger service. In 1918 he/unlawfully/enlarged the right by filing tariffs quoting excess baggage and express rates. When Jones, with the approval of the Commission, purchased the line, he was ordered to adopt the Conlin tariffs and time schedules. He did so and has ever since conducted the service in accordance with the tariffs as adopted. He promptly filed the instant application when advised by the Commission that insofar as his

property-hauling service was concerned his operation was illegal.

Inasmuch as the granting of this application will not result in the establishment of a new service but will legalize an operation performed for several years under the impression that it was an authorized service, and inasmuch as all the circumstances indicate that there was no willful intent to violate the law, we are of the opinion that the application should be granted. We are of the further opinion that this is a matter in which a public hearing is not necessary.

E. A. Jones 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by E. A. Jones of an automotive service for the transportation of baggage and express between Marysville and Nevada City and intermediate points, including the communities at Smartsville, Rough and Ready and Grass Valley; provided that no single piece of express or baggage weighing in excess of 200 pounds shall be transported and that said express and baggage shall be limited to such property as may be transported on the passenger stages operated by applicant Jones between Marysville and Nevada City and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be, and the same is hereby granted to E.A.Jones, 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 rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed thirty (30) 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 16th day of November, 1928.

C. Seaver

W. J. ...

Thos. J. ...

W. R. ...

COMMISSIONERS.