

**ORIGINAL**  
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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
TANNER MOTOR LIVERY, for certificate )  
of public convenience and necessity ) Application No. 14582  
to operate a "Southern California ) (Supplemental).  
Tour" by parlor car. )

In the Matter of the Application of )  
TANNER MOTOR LIVERY, for a certificate )  
of public convenience and necessity, ) Application No. 14583  
authorizing it to operate a "California ) (Supplemental).  
Tour de Luxe" by parlor car. )

Faries & Williamson, by David R. Faries, for Applicants.  
Warren E. Libby and Frank B. Austin, by Frank B. Austin, and  
Libby & Sherwin, by Geo. F. Wasson, for  
Pickwick Stages System, Protestant.  
Earl A. Bagby for California Transit Co., Protestant in  
Application No. 14583.  
Newlin & Ashburn, by Arthur T. George, for California Parlor  
Tours, Inc., Gray Line, Inc., and Davis Auto Tours, Inc.,  
Protestants in Application No. 14583.  
F. D. Dorsey, by E. W. Hobbs, for San Diego & Arizona Railway,  
Protestant in Application No. 14582.  
E. W. Hobbs, for Southern Pacific Co., Protestant in  
Application No. 14583.  
Norman E. Robothem, for Pacific Coast Motor Coach Co., Protestant.  
Brobeck, Paleger & Harrison, by Frank S. Richards, for Yosemite  
Transportation System and the Yosemite Park and Curry Co.,  
as interested parties.

BY THE COMMISSION:

O P I N I O N

The above entitled applications were filed simultaneously  
by Tanner Motor Livery of Los Angeles and by agreement of all par-  
ties were consolidated for hearing and decision.

Application No. 14582 seeks the authority of the Commis-  
sion to operate a circular sight-seeing tour beginning in Los  
Angeles and going to Long Beach, thence along the coast to San Diego

and across the Mexican border to Tia Juana. Returning to San Diego the trip is continued into the Imperial Valley via El Centro and Calexico with a side trip to Mexicali. From El Centro the route is northward through Coachella Valley visiting Palm Springs, thence to Redlands and Riverside, and back to Los Angeles by way of Ontario and the Foot Hill Boulevard.

The duration of this trip is five days and the cost is fixed at \$74.40 which includes all expenses, save gratuities. Said tour is to be operated once each week during the months of February, March and the first<sup>half</sup> of April. Tariff and time schedules are attached to the application and provision is made for the allocation of a certain number of Fageol safety busses from applicant's present equipment to care for the proposed service.

Application No. 14583 requests the Commission to authorize a sight-seeing tour from Los Angeles to San Francisco via the Coast route and returning via the San Joaquin Valley. More specifically, this proposed trip, leaving Los Angeles, traverses the Coast highway visiting Ventura, Santa Barbara and San Luis Obispo; thence to Del Monte Hotel, Santa Cruz, the Big Trees, Stanford University and San Francisco. From this point side trips may be made to Petrified Forest, Santa Rosa, Petaluma and the East bay region, and other adjacent points. Leaving the bay region from Berkeley the route thence lies down the San Joaquin Valley to Merced, where, by virtue of joint arrangement with Yosemite Transportation System, passengers are taken to Yosemite Valley for a short visit. Returning to Merced, the trip is continued down the valley to Fresno, Bakersfield and thence over the Ridge Route to Los Angeles.

The tour above outlined is to consume thirteen days and the cost is given at \$208.50, including all expenses incidental thereto except tips. As in the case of the southern tour this

trip will be operated once each week during the months of February, March and the first half of April. Attached to the application are tariffs and time schedules and a list of the equipment to be used.

Public hearings were held before Examiner Gannon on August 29th and 30th and October 30th and 31st, at which time the matters were submitted on briefs and are now ready for decision.

As justification for the granting of the certificate herein prayed for, applicant relies upon the following alleged facts:

1. That numerous requests have been made of applicant to furnish tours in accordance with the plans herein proposed covering the principal points of interest in southern and central California.
2. That applicant operates at Los Angeles and Pasadena an Automobile Livery furnishing automobile service to the guests of the leading hotels in both cities, and also conducts sight-seeing services to San Diego, Riverside and Santa Barbara, and that hotel guests thus served have especially inquired for the proposed tours.
3. That eastern tour agencies and travel bureaus now sending large numbers of tourist parties to California on all-paid sight-seeing trips demand new and additional tours for their patrons.

Both applications were protested by Pickwick Stages System and Pacific Coast Motor Coach Company. Application No. 14583 was protested by California Transit Company, Southern Pacific Company, California Parlor Car Tours, Inc., the Gray Line, Inc. and Davis Auto Tours, Inc. The San Diego and Arizona Railway protested only Application No. 14582.

Applicant produced several witnesses who offered testimony in support of both applications and by stipulation the testimony of several other witnesses was admitted. For the most part, these witnesses were employees of the applicant company and managers of hotels.

The manager of the tour department of this company testified that he had had inquiries for these tours from hotel managers

and patrons, and also from patrons of their local sight-seeing tours. He had visited many eastern tourist agencies and travel bureaus and found a demand for a service of this type. Much the greater portion of their patrons come from the East on railroad transportation direct to Los Angeles and up to San Francisco, returning again to Los Angeles. The tours here proposed would be sold largely in the East as a part of the western trip, thus giving patrons an opportunity to see California by a leisurely motor tour rather than by train. Last winter season this company handled between twenty and thirty personally conducted touring parties of this type averaging 15 to the party and in the judgment of the witness they might expect between five and ten passengers per trip for the first season. The type of tourist for whom these trips are planned would not be interested in travelling by motor bus and are glad of the opportunity to avoid the various inconveniences of train travel.

Three hotel managers testified quite similarly. Their hotels cater to the better class of tourists who are able to afford the luxury of a high-class sight-seeing service and to whom travelling in motor stages makes no appeal. They were desirous on the northern trip of seeing such points of interest as Santa Barbara and Del Monte on the coast and Yosemite Valley in the interior and many of them had a desire to see the San Joaquin Valley at least once. Many of their guests cannot afford a private conveyance to make these trips, but the cost of the proposed tours is well within their means. In the opinion of one of these managers there is no comparison between the rail trips and these here proposed, one class being essentially transportation and the other sight-seeing.

Applicant also called four of its own travel representatives who are stationed at the leading hotels and who testified

as to the demand for these tours. One of these representatives estimated the inquiries he had had at from 20 to 25 per month during the season, one-third for the northern and two-thirds for the southern trip. Another had 65 inquiries during the year for the northern trip and he had lost some business because his people did not feel able to rent private cars and yet would have joined a party under some such arrangement as here proposed. Most of the inquiries are from eastern guests who would not patronize a stage line and yet who would not feel warranted in hiring limousines for so extensive a trip. A northern trip up the coast and down the valley offers a diversified tour and for this and the southern tour there had been many inquiries.

The secretary of the applicant company testified that they had been operating sight-seeing busses for three years and that they now operate 20 of these, together with a fleet of some 200 Cadillac, Packard and Lincoln limousines. His company has sent approximately 75 limousine parties over the southern trip and from 75 to 100 parties over the northern trip during the past year. For the southern trip a limousine for five days would cost \$125., regardless of the number of passengers carried, and for the northern trip for 14 days the rental charge would be from \$300. to \$350. per car, plus driver's expense in both cases, of \$5.00 per day. He knew of instances where passengers would not take the limousine trips, but would avail themselves of these tours.

Applicant introduced in evidence a large number of letters from various eastern travel bureaus setting forth the alleged demand for tours of this character. The purport of these letters, inspired as they were by the applicant, were to the effect that many tourists from the East visited California each

winter; that they would be charmed with the idea of taking a leisurely personally conducted sight-seeing trip through California, utilizing high-class parlor car equipment, rather than train; that they are bent on pleasure and are not in a hurry and that while they may balk at the rental charge for a limousine, they would patronize the type of service which applicant proposes. One of these travel bureaus stated they could send 25 parties of approximately two to ten members each during the season of 1928-29. This would be accomplished through a campaign of intensive advertising on the part of said bureaus.

California Transit Company, protestant in Application No. 14583, alleges that the proposed tour would be competitive with that carrier in the San Joaquin Valley. Its only witness urged that applicant send its touring parties over California Transit busses as being cheaper, and this witness's testimony in the main was based largely upon the element of the cost of the tour. This carrier operates at least five through schedules the year round between Los Angeles and San Francisco, via Merced, and has joint tariffs with the Yosemite Transit Company at that point. Witness was of the opinion that his own company and the rail lines offer all the transportation that is necessary.

Pickwick Stages System, protesting both applications, produced three witnesses, all employees, whose testimony was directed toward the alleged lack of necessity of the proposed tours. This carrier operates a circular tour, beginning and ending in Los Angeles, and going to San Diego, thence to El Centro taking in Palm Springs, Riverside and Pomona. The fare is \$14.50 with a 60 day ticket limit. It operates 12 daily schedules each way between Los Angeles and San Diego and from three to four daily over the balance of the circle. It also operates between Los Angeles and San Francisco with joint tariff arrangements down the San Joaquin Valley via

California Transit Company to Los Angeles, the transportation cost of this trip being \$27. Passengers on the northern trip desiring to visit Del Monte, Santa Cruz and the Big Trees would be required to change stages at Salinas, and other points included in both of applicant's proposed tours are omitted by this line.

Application No. 14583 was also protested by Southern Pacific Company which operates trains between all points proposed on the northern trip. This protestant submitted an itinerary prepared by a local travel bureau touching practically every point reached by applicant covering a period of eleven days at a cost of \$189.21 including all expenses. It is also possible to make a portion of the southern trip over its rail lines and those of its subsidiary, though no claim was made that this service is as convenient as that of the applicant.

California Parlor Car Tours, Inc., Gray Line, Inc. and Davis Auto Tours, Inc. also appeared as protestants in Application No. 14583. California Parlor Car Tours, Inc. operates one way two-day and three-day tours between Los Angeles and San Francisco over the route proposed by applicant and covering the same points. These tours are all-paid personally conducted, in 19 to 21 passenger parlor cars and leave each terminal twice a week, returning over the identical route. The cost of the two day tour is \$30.50 and of the three day tour \$47.50. Evidence in the shape of a large number of questionnaires was introduced tending to proclaim the general excellence of these tours and testifying as to the satisfactory manner in which they are handled. These tours were started three years ago and despite a large sum expended in advertising have been operated at an accumulated loss of \$31,000. during that period. According to the traffic manager of this company, the three day tour handles

ten times as much traffic as the two day tour which might, in a measure, indicate the greater popularity of a more leisurely tour. The Gray lines in San Francisco and Santa Barbara operate tours in and about those cities and interchange tickets with California Parlor Car Tours, Inc. However, applicant's proposed service could not possibly be competitive with this protestant for the reason that no local sight-seeing patrons are to be served in these communities.

After a careful consideration of the evidence in these proceedings we have concluded, and find as a fact, that public convenience and necessity require the establishment of the proposed service. The tours proposed are not comparable to any service now being supplied unless it be to that furnished by California Parlor Car Tours, Inc. and as to that the comparison falls if it be admitted that the requirements demand a more leisurely trip. We take it from the evidence that the proposed tours are offered to supply a definite demand for sight-seeing trips which no existing carrier has heretofore been able to fill. The class of patrons who come from the East to spend the winter months at the first-class hotels in Los Angeles and Pasadena are not, as a rule, restricted either as to their time or their means and certainly are not the type who would be satisfied with seeing the points of interest in this state by means of motor stage transportation. The elements of comfort, convenience and freedom from annoying details are of some importance.

Applicant proposes to use the most modern type of observation parlor car accommodating 20 to 25 passengers with a trained conductor who accompanies the party on the entire journey. In case of a small party a limousine will be substituted for the larger car. On account of the high rate charged for transportation, viz.; \$87.50 for the northern and \$50. for the southern tour, the proposed service



would not detract from the stage lines operating over these routes. In fact, the evidence does not show anywhere that the proposed service would involve any serious degree of competition with the stage companies or with the rail lines for that matter. The class of patrons appealed to would either have to go by train, stopping at the various points of interest, or hire private touring cars. The latter method is very expensive and really offers nothing of importance that the proposed service will not give, while the inconvenience and annoyance of making sight-seeing trips by rail are of course obvious.

Protestants in their testimony as well as in their briefs seem unable to differentiate between transportation, per se, and transportation as a necessary adjunct of sight-seeing. There is no question as to the adequacy of present transportation service over both routes involved herein, but no showing is made by any protestant that the particular sight-seeing service here offered is now available to the public in the territory embraced in the applications. Existing transportation companies, protesting these particular applications, have no comparable substitute service to offer. The applicant proposes to transport its patrons in leisurely fashion under the guidance of competent conductors and free from the manifold petty annoyances which oftentimes make travel a delusion and a snare. Meals, hotels, schedules, itineraries, admissions and countless other necessary perquisites of travel are all arranged for by the applicant or its agents much to the comfort and peace of mind of the tourist.

The record shows a substantial demand for the proposed service by tourists, hotel managements and applicant's employees in close touch with the touring public and a sufficient affirmative showing has been made to justify the granting of both

applications as prayed for.

Tanner Motor Livery 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

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require the operation at least once each week during the months of February, March and April of each year by Tanner Motor Livery of an automotive sight-seeing service with Los Angeles as the single terminus over and along the following routes:

1. From Los Angeles to Ventura and Santa Barbara, through Santa Maria, San Luis Obispo, Paso Robles, King City and in through Salinas. From this point to the Del Monte Hotel and Monterey, Watsonville, Santa Cruz, Big Trees, Los Gatos, Stanford University, San Mateo and Burlingame. From the latter point the route is direct to San Francisco and the bay region with trips to the Petrified Forest, Petaluma, Santa Rosa, Vallejo, Richmond and Oakland and Berkeley. Leaving Berkeley the route is by way of Hayward down the San Joaquin Valley to Merced and, after the completion of the Yosemite sight-seeing trip, returning to Merced and continuing down

the valley to Fresno, Bakersfield and over the Ridge Route to Los Angeles.

2. Leaving Los Angeles through Long Beach and along the coast to Laguna Beach and Dana Point, thence to San Juan Capistrano Mission, Oceanside, La Jolla, San Diego with a side trip across the border to Tia Juana and back. From San Diego the route lies east to Imperial Valley via El Centro, Calexico and Mexicali and thence north to Palm Springs through San Geronimo Pass to Redlands and Riverside. From this point the route is to Ontario and the Foothill Boulevard through Claremont and Pomona to Los Angeles.

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

1. Applicant shall file its 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.

