

Decision No. 91000

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation)
on the Commission's own motion into)
the practices and operations of)
GEORGE J. NIXON, operator of an)
automotive stage service for the)
transportation of persons and prop-)
erty between Imperial Beach and)
San Diego.)

Case No. 2632.

F. A. Jones and C. J. Gamble for Respondent,
Richard T. Eddy for Sutherland Stages, Intervener.

BY THE COMMISSION:

O P I N I O N

The above entitled proceeding, an order to show cause why any or all operative rights possessed by George J. Nixon under and by virtue of Decision No. 9918 for the operation of an automotive stage service for the transportation of persons and property between Imperial Beach and San Diego should not be revoked and annulled, came on regularly for hearing before Examiner Satterwhite at San Diego at 10:00 a.m. on the 19th day of December, 1928.

Said order to show cause was issued and based upon certain affidavits filed with this Commission which indicated that by certain practices and methods in the conduct of his operative rights under said Decision No. 9918, George J. Nixon was violating and ignoring orders and provisions of said Decision No. 9918 issued on Application No. 7315.

The record shows by this Commission's Decision No. 9918 dated December 23, 1921, on Application No. 7315, George A. Nixon was granted a certificate for the operation of an automotive passenger, light freight and express service between Imperial Beach and San Diego over the following route:

From Imperial Beach to Palm City by main road; thence by main highway to Chula Vista; thence via Highland Avenue and 8th Street to National Avenue; thence via National Avenue to San Diego.

Provided, no service of any kind is to be performed except to and from San Diego and points between Palm City and Imperial Beach, exclusive of Palm City.

The evidence in this proceeding shows that George J. Nixon, in compliance with the directions of the Commission's order filed a tariff with this Commission on January 23, 1921, as shown in his Tariff C.R.C. No. 1, effective January 23, 1922. This tariff was accepted and filed by the Commission and shows the following passenger rates and service:

RATES- Passenger Service- exclusive of War Tax.

Between Imperial Beach and San Diego - - -	50¢	one-way-	90¢	round trip		
" " " National City -	35¢	" "	60¢	" "	" "	" "
" " " Chula Vista - -	30¢	" "	50¢	" "	" "	" "
" " " Otay - - - -	25¢	" "	45¢	" "	" "	" "
" " " Palm City- - -	20¢	" "	35¢	" "	" "	" "
" " " So. San Diego- -	15¢	" "	25¢	" "	" "	" "

It is clear, from an examination of the above certificate, that authority was granted ^{Nixon} to operate between San Diego and Imperial Beach, with no right to serve any intermediate points except points intermediate between Imperial Beach and Palm City, excluding Palm City. It thus appears that no authority was given to Nixon to serve National City, Chula Vista, Otay and Palm City.

George J. Nixon testified at the hearing that through a misunderstanding of the limitations placed upon the intermediate points authorized to be served he had filed a tariff of rates, indicating service to National City, Chula Vista, Otay, Palm City

and South San Diego, and that in doing so he had no intention or desire to violate the order of the Commission as shown in said Decision No. 9918.

The record shows, however, without contradiction that by reason of the misinterpretation of the operative rights as to the intermediate service granted to him, the respondent had filed in good faith the above rate schedule and had carried from time to time a few passengers to these way-points.

After a careful consideration of all the evidence in this proceeding, we do not feel that the facts and circumstances justify the cancellation and revocation of the operative rights of respondent, but the order herein would direct an immediate discontinuance of said operations to the intermediate points not authorized to be served.

O R D E R

A public hearing having been held in the above entitled proceeding, evidence taken and the Commission being now fully advised, and basing its order on the findings of fact as appearing in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that George J. Nixon be and he is hereby directed to immediately desist from and discontinue his passenger and express service to National City, Chula Vista, Otay and Palm City.

IT IS HEREBY FURTHER ORDERED that George J. Nixon immediately file supplements to his tariffs and time schedules canceling rates and schedules covering service to points he had not been authorized to serve.

Dated at San Francisco, California, this 22nd day of April, 1929.

Thomas D. Latta
Chas. J. ...
Ernest ...
Leon ...
M. J. ...
Commissioners.