

Decision No. 21093

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of SEQUOIA & GENERAL GRANT NATIONAL )  
PARKS COMPANY for a certificate of )  
public convenience and necessity to )  
operate an automobile passenger ser- )  
vice between Sequoia National Park )  
and General Grant National Park. )

**ORIGINAL**

Application No. 15,392.

Richard T. Eddy, for Applicant.

Earl A. Bagby, for California Transit Company,  
Protestant.

E. L. Askin, for Sequoia National Park Stage  
Company, Protestant.

Robert M. Elliott, for Dinuba Chamber of  
Commerce, Protestant.

Floyd Byrnes, for Visalia Chamber of Commerce,  
Protestant.

BY THE COMMISSION:

O P I N I O N

Applicant herein, Sequoia & General Grant National  
Parks Company, seeks a certificate of public convenience and  
necessity for the establishment of seasonal auto stage service  
for passengers between Sequoia National Park and General Grant  
National Park (to be hereafter referred to as Sequoia and Grant).

A public hearing herein was conducted by Examiner Will-  
iams at Fresno.

Applicant proposes a round-trip from Sequoia to Grant  
and a one-way trip from Grant to Sequoia. The round-trip is

to be made available for parties of four or more, and the one-way trip for six or more. By amendment at the hearing, applicant proposes to transport passengers between termini in any number, when there are available seats in the vehicles performing either round-trip or one-way service. No service of any character between termini is offered.

The rates proposed are \$12.50 per passenger for round trips, and \$8.00 per person for single trips. The distance between termini is 83 miles, though the boundaries of the two parks are but 10 miles apart, air line. The only available route is via Three Rivers, Lemon Cove, Woodlake, Badger and Pinehurst, and the fares fixed include not only transportation over the public highways, over which this Commission has jurisdiction, but also to the main terminals in the Parks.

The service is offered "on call" only, and no regular schedules will be provided; in other words, the prerequisite of any movement is a demand by four persons for a round trip, on which single passengers will be transferred to the capacity of the vehicle, or demand by six one-way passengers. As the vehicle offered for service is only a six-passenger observation touring car, the minimum for single passengers is a capacity load, unless there are empty seats on round trips. Applicant stipulated that it would provide additional equipment for larger numbers than the minima fixed.

According to the testimony of Hazen E. Bankins, Vice President of applicant company, the service responds to demands in the past for its establishment from visitors to Sequoia at The Lodge and also at Kaweah Camp. According to him, 98,000 persons visited Sequoia in 1928 season, and 49,000 visited Grant, several thousand of the total visiting both parks. It was ad-

mitted that more than 95 per cent of this movement was made in private machines. He estimated 750 to 1,000 as the number transported by public carriers.

A letter introduced in evidence (Exhibit No. 7) from Col John R. White, Superintendent of both Sequoia and Grant, under the National Park service, stated that he estimated the number who visit both parks is not less than 5,000. Col. White urged the establishment of the service proposed because of the different physical aspects of the parks and because "I am convinced that transportation between the two parks on call and demand service will fill a real need for the public."

Testimony as to public demand for transportation between the parks was also given by William E. Metzger, Fresno, Secretary and Manager of the San Joaquin Valley Tourist Association (representing eleven contiguous counties); George L. Manger, Manager of applicant company, Herbert E. Wilson, Sequoia lecturer, and Neil Perry, purchasing agent. They testified that visitors at each park were disappointed because to visit the other by existing public transportation requires a journey via Fresno and a one-way trip of 161 miles to gain a destination actually only ten miles distant. Often parties have sought private means of conveyance, these parties including many who had their own cars, but who did not feel safe in difficult mountain driving. It was also shown that a new road between the parks is being constructed which will reduce the distance to 35 miles.

The application was opposed by E. L. Askin, proprietor of the Sequoia National Park stage line, operating from Visalia and Exeter to the park boundary, via Lemon Cove, under authority of this Commission, on the ground that it parallels his operation between the Sequoia boundary and the north part of Lemon Cove; that in his years of operation he has not had ten inquir-

ies for transportation to Grant, and that he maintained a service from Lemon Cove to Grant in 1923, and transported but two passengers in a season.

Chambers of Commerce at Dinuba and Visalia were protestants against any new service that may injure the already established services in Tulare County. Neither introduced testimony.

California Transit Company protested the granting of this certificate unless it was accompanied with the obligation on the part of applicant to establish joint rates with other carriers. It submitted joint rates of this carrier with protestant and other carriers as evidence that joint rates for the new service proposed would be beneficially effective for great distances. Objection was also made to the double restriction as to "on call" and minimum number of passengers. The question is one of public convenience and necessity under the application before us and no offer of joint rates was made by applicant. Nor, indeed, is it apparent that joint rates will be practical between a regularly scheduled service and the "on call" or demand service proposed, with its uncertain or erratic connections. Applicant proposes a sort of sight-seeing trip between the parks by the shortest available route between termini. It submits to the jurisdiction of this Commission because its operations will be between fixed termini and over a regular route for compensation and probably of considerable frequency. Its method of operation is based on its own experience and contact with that portion of the public that may use it. Its rates, according to testimony, are based on the National Parks Service allowance for a "For Hire" vehicle--\$6.00 per hour--multiplied by the eight hours actual travel required by the round trip, with an allowance for three hours standing time. To a large extent it is experimental, and it may become a regularly scheduled operation. To obligate such a public service as a prerequisite to a certificate to agree to joint rates is, we

believe, extraneous to the question of public convenience and necessity here involved.

As to the other protests, they are met by the fact that applicant stipulates to only operate between termini and with no intermediate rights. Only passengers already in Sequoia or Grant will benefit by it to the injury of no exterior carrier and with some chance of benefit. The needs of the public and the park authority, as shown by the record, should not be impeded by mere technicalities.

We therefore find as a fact from the record herein that public convenience and necessity require the establishment of the service, as amended, by applicant, and an order accordingly will be entered.

Sequoia and General Grant National Parks Company 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

SEQUOIA & GENERAL GRANT NATIONAL PARKS COMPANY, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile passenger service between Sequoia National Park and General Grant National Park, a public hearing having been held, 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 "on call" automobile transportation ser-  
vice available between May 25, and September 15, by applicant  
between Sequoia National Park at its southern boundary and  
General Grant National Park at its southern boundary and with-  
out any intermediate service; provided, however, that the cer-  
tificate herein granted is only for round-trip and one-way  
schedules "on call" or demand, round-trips for four or more  
passengers originating at Sequoia National Park, and one-way  
trips for six or more passengers originating at either termini;  
provided, however, that applicant shall transport one-way pas-  
sengers between termini whenever there is available space on  
round-trip vehicles at either termini; and provided further,  
that applicant shall not be limited to the capacity of one ve-  
hicle, but shall provide transportation promptly for all in  
excess of minima presenting themselves; over and along the fol-  
lowing route:

"Southerly from the southern boundary of Sequoia  
National Park via "Generals Highway" and Hammond,  
Three Rivers and Lemon Cove, thence over the county  
highway via Woodlake, Badger and Pinehurst to the  
southerly boundary of General Grant National Park;

and

IT IS HEREBY ORDERED that a certificate of public con-  
venience and necessity therefor be, and the same hereby is,  
granted applicant herein, subject to the following conditions:

1. Applicant shall file within ten (10) days from  
the date hereof its written acceptance of the certificate  
herein granted.

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 times schedules satis-  
factory to the Railroad Commission, and shall commence op-  
eration 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 it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of May, 1929.

Thos D Lott

C. Seamy

John A. White

W. A. Bell  
Commissioners.