

Decision No. 22576.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of ANDERSON BROTHERS for an order defining its operative rights and routes for the transportation of passengers and their baggage, and for the transportation of property; to extend certain operations and to amend certain restrictions; and to have issued to it a certificate of public convenience and necessity in lieu of all existing certificates and rights involving applicant's operative rights between the California-Nevada State Line at a point north of Topaz, the California-Nevada State Line near Jones' ranch and Farrington, California.

Application
No. 16565.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

This is an application by L.N. and E.G. Anderson, copartners, doing business under the firm name and style of Anderson Brothers, for a certificate of public convenience and necessity in lieu of the following described operating rights:

A prescriptive operating right for the transportation of freight over two routes between points on the Nevada-California State Line and Mono Lake (Tioga Lodge) and intermediate points via Bridgeport as evidenced by C.R.C. No. 1 of Gardnerville Transportation Company effective March 1, 1917; a certificate for the transportation of passengers between Nevada-California State Line and Bridgeport as granted by Decision 9673 of October 28, 1921 in Application 7110; and a certificate for the transportation of passengers, baggage and express between Bridgeport and Mono Lake (Tioga Lodge) and certain specific intermediate points as granted by Decision 18882 of October 4, 1927 in Application 13925, such certificate having been granted as an extension of the certificate granted by Decision 9673.

The applicant is also in possession of a certificate of public convenience and necessity for the transportation of freight between Sacramento and points intermediate to Coleville and Carson Camp which certificate is not involved herein.

The certificate as applied for contemplates some minor extensions set forth in the application as follows:

(a) To permit the applicant to establish, conduct and operate an automotive truck service for the transportation of freight as a common carrier between California-Nevada State Line north of Topaz, Bridgeport and Farrington, and between California-Nevada State Line near Jones' ranch, Bridgeport and Farrington, and all intermediate points. For permission and authority to give an "on call" service to all ranches, mining camps and points situated within a zone extending parallel to the highway traversed and ten miles distant therefrom on either side thereof between Tioga Lodge (Mono Lake), and the State Line points as described above.

(b) To permit applicant to establish, conduct and operate an automotive stage service for the transportation of passengers, baggage and express as a common carrier, between California-Nevada State Line north of Topaz, and the California-Nevada State Line near Jones' ranch, and Tioga Lodge (Mono Lake) via Bridgeport, and all intermediate points serving Silverado, Masonic, Bodie and Twin Lakes including the Power House, by diversion when necessary.

The applicant relies as justification for the granting of a certificate in lieu of the operating rights as herein above referred to on the following conditions:

(a) That the applicant is the only certificated carrier operating a freight service in the territory described, and since prior to 1917 applicant has been serving this territory, but, unknowingly, by tariff filing applicant limited his operating rights to points within one mile of the main highway, whereas the distribution of animal feed for ranchers and general commodities for mines,

mining camps, summer resorts and camps, rangers cottages, ranches and a power house demand a service to points more than one mile from the highway, on call, within the zone described in this petition.

(b) The applicant is the only certificated carrier operating a passenger, baggage and express service in the territory described. Public convenience and necessity require that the applicant be allowed to serve all points intermediate, instead of only the points specified in the applicants' existing certificates, with also the right to serve the points of Silverado, Masonic, Bodie and Twin Lakes by diversion when necessary, as these points are now without any passenger, baggage or express service, and travellers to these points, that are without private means of transportation, are now also without public means of transportation.

The present operating rights of the applicants in this territory are susceptible to misconstruction due to ambiguities and inadequate descriptions and a new certificate should be issued to more accurately set forth such rights.

In view of the fact that no other common carriers are operating in the territory involved in this application we are of the opinion that this is a matter in which a public hearing is not necessary and hereby find as a fact that the certificate should be granted as set forth in the order herein.

The copartnership of L.N. and H.G. Anderson 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HEREBY DECLARES that public convenience and necessity require the operation by L.N. and H.G. Anderson, copartners, of an automotive transportation service as a common carrier of passengers, baggage, express and freight between a point on the California-Nevada State Line northerly of Topaz and Farrington, and between a point on the California-Nevada State Line near Jones' ranch and Bridgeport and all intermediate points via Coleville, Toll House, Fales, Bridgeport, Poor Farm, Summit, Mono Inn, Tioga Lodge (Mono Lake), and Leevining and serving "on call", by diversion, the points of Silverado, Masonic, Bodie and Twin Lakes, Mono County, with the right to give an "on call" freight service to all points located on the highways situated within the territory extending parallel to the route herein authorized and a distance of five miles laterally on each side thereof except that no such lateral right is granted between Tioga Lodge (Mono Lake) and Farrington, with the further exception that no passengers, baggage nor express service may be given south of Tioga Lodge (Mono Lake).

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for a unified automotive transportation service as next hereinabove described be and the same is hereby granted to the copartnership of L.N. and H.G. Anderson in lieu of the operative rights established by virtue of operation prior to May 1, 1917 and the rights granted by Decision 9673 of October 28, 1921 in Application 7110 and Decision 18882 of October 4, 1927 in Application 13925 subject to the following conditions:

1- Applicants shall within twenty (20) days from the date hereof file an acceptance of the certificate herein granted, which acceptance shall contain a declaration to the effect that said certificate is accepted as a certificate in lieu of and not in addition to the operating rights and certificates as more particularly described in this order.

2- That express herein authorized shall not exceed one hundred fifty (150) pounds per package and shall be transported on the passenger stages only of the applicants.

3- Applicants 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 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 thirty (30) days from the date hereof.

4- 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.

5- No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them 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 24th day of

June 1930.

[Signature]
[Signature]
[Signature]
[Signature]
COMMISSIONERS.