

Decision No. 22989

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of an Investigation on)
 the Commission's own motion into the)
 services, practices and operations of)
 SEQUOIA AND GENERAL GRANT NATIONAL) Case No. 2497
 PARKS COMPANY, a corporation, operating)
 an automotive passenger stage sightseeing)
 service from Visalia to Giant Forest)
 Lodge and return.)

Richard T. Eddy, for Respondent.
 Gwyn H. Baker, for Sequoia National Park Stage
 Company, Intervenor.

BY THE COMMISSION -

O P I N I O N

This is a proceeding, instituted by the Railroad Commission upon its own motion, directing that an investigation be instituted to determine whether or not the service, practices and operations, or any of them of Sequoia and General Grant National Parks Company, a corporation, operating an automotive passenger stage sightseeing service for the transportation of persons from Visalia to Giant Forest Lodge and return are unreasonable, discriminatory or preferential in any particular or in any manner illegal or unlawful.

A public hearing was conducted in this proceeding before Examiner Handford at Los Angeles and the matter was duly submitted upon the filing of briefs by counsel.

At the hearing of this matter the Sequoia National Park Stage Company presented a formal request to intervene in this matter and such request was granted and counsel for intervenor thereafter participated in this proceeding.

The record in this proceeding shows that the operations which were questioned were the sightseeing and hotel bus operations of the respondent and whether or not such operations were those of a common carrier as the term is defined in Chapter 213, Statutes of 1917, and effective amendments, or by Section 50½ of the

Public Utilities Act, it being the contention of counsel for the intervenor that the form of ticket sold by respondent and the service thereafter rendered was that of a common carrier rather than that rendered by a sightseeing bus or by a hotel bus. It is apparent from the record that both sightseeing passengers and those purchasing tickets to which a coupon was attached for hotel accommodations were transported on the same vehicle during the season of 1926 and that portion of the season of 1927 until respondent was enjoined by the Superior Court in and for the County of Tulare, since which portion of the season of 1927 no service has been rendered to the public.

It appears that the legality of the operation was the subject of court action prior to the institution of these proceedings and that upon complaint of the intervenor in the Superior Court of Tulare County a temporary injunction was served upon the respondent company on July 24, 1927. The matter was regularly heard by the Superior Court in and for the County of Tulare and on November 2, 1928, a judgment was entered permanently restraining the respondent company from transporting passengers between Visalia and/or Exeter and the boundary line of Sequoia National Park, until said respondent company should have obtained a certificate from the Railroad Commission declaring that public convenience and necessity require such transportation of persons by said respondent. Later, the respondent company (defendant in the court action) appealed from the judgment rendered by the Superior Court in and for the County of Tulare and the matter was the subject of a decision on August 1, 1930, by the Supreme Court of the State of California (Sac. No. 4302) in which the Supreme Court, after a thorough review of the proceeding, reversed the decision as rendered by the Superior Court.

We are of the opinion and hereby conclude, inasmuch as the matter under investigation is one that prior to the institution of our investigation was the subject of court action and that such court action resulted in a decision by the Supreme Court of this state, based upon an exhaustive opinion, that the matter of the investigation on the Commission's own motion should be dismissed and the following order will so provide.

ORDER

A public hearing having been held on the above entitled proceeding, the matter having been duly submitted upon the filing of briefs, the Commission being now fully advised and basing its order on the conclusion as set forth in the opinion which precedes this order,

IT IS HEREBY ORDERED that this investigation be and the same hereby is dismissed.

Dated at San Francisco, California, this 21st day of October, 1930.

C. Searcy

Leon A. Kelly

Thos. J. Lattin

W. J. Cain
COMMISSIONERS.