

ORIGINAL

Decision No. 11874

Decision No. _____.

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

In the Matter of the Application)
of A. G. HERRING for Certificate)
of Public Convenience and Neces-) Application No. 3229
sity to Operate Automobile Stages)
between San Diego and Camp Kearney.)

Leonard Wilson for Applicant.

Warren E. Libby for Pickwick
Stages, Protestant.

Robert G. Hill, for United Stages,
Protestant.

J. D. Jennings for City of San
Diego.

BY THE COMMISSION:

OPINION

Applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of automobile stage service as common carrier of passengers between San Diego and Camp Kearney, to be operated under the name of "Linda Vista Stage Line".

It is proposed to operate daily a minimum of four auto stages in this service; First car to leave San Diego at 7:00 A.M. and Camp Kearney at 8:00 A.M.

and a car from each terminus hourly thereafter. Last car to leave San Diego at 7:00 P.M. and Camp Kearney at 8:00 P.M. Following is description of the four cars:

	<u>H. P.</u>	<u>Seating Capacity</u>	<u>State License No.</u>
Studebaker	30	7	218352
Chandler	28	7	15669
Chalmers	28	7	27131
Chalmers	28	7	27132

Additional cars to be used in the service as traffic requires.

Applicant proposes to charge for the service a one way fare of 50 cents and 90 cents for round trip.

The terminus at San Diego is 1032 Fourth Street and at Camp Kearney is to be designated by U. S. Military Authorities.

Permits have not been secured from either the City or County of San Diego as required by Section 3 of Chapter 213, Laws of 1917, but necessary application has been made therefor. The order herein will not become effective until the Railroad Commission has made a supplemental order herein reciting that such permits have been secured.

Public hearings were held at San Diego by Examiner Encell. Protest was entered by the United Stages and Pickwick Stages against the granting of the certificate prayed for, protestants claiming that their respective companies were equipped to furnish adequate service to properly accommodate all traffic offered and that Camp Kearney is an intermediate point on their established route to Escondido

via Miramar, which service was in effect prior to May 1, 1917, thereby giving them a vested right.

It was shown at the hearing that the route traversed by protestants to and from Escondido via Miramar was not via the same route as is traversed by them to and from Camp Kearney; therefore protestants were operating to Camp Kearney without proper permits and were requested to file formal applications for necessary permits from the City and County of San Diego and for certificate of public convenience and necessity from the Railroad Commission.

This application is one of six similar applications which by consent and agreement of all interested were consolidated for hearing; it being stipulated that the evidence given in this proceeding was to be considered as evidence in the others.

Witness for applicant testified that, at that time, there was approximately 12,000 troops located at Camp Kearney and that within a very short period of time the number would be increased to 40,000 or 45,000. That adequate transportation facilities were not being furnished by the stage lines then operating between the points in question, and that this condition was justification for granting the certificate requested.

The problem to be dealt with primarily in this proceeding is that of providing adequate service for the soldiers now stationed at Camp Kearney who desire on the days on which they are ^{at} liberty to visit the City of San Diego and neighboring cities. They are granted leave of

absence from the military reservation on Wednesdays, Saturdays and Sundays. On these days the public generally is allowed to visit the Camp. At other times civilian employees in numbers not exceeding two hundred, and this number is gradually diminishing to naught, require transportation. Aside from transportation by automobile, the Atchison, Topeka & Santa Fe Railroad has built its tracks into the Camp and maintains a schedule which is more than ample to provide accommodations for this civilian travel, but which transportation is not as satisfactory on account of requiring twenty to thirty minutes more to make the trip than by automobile, and is inadequate on "liberty days".

Practically speaking it may be said that the only public convenience and necessity which is involved herein is that which deals with the transportation of United States Army soldiers from within the boundaries of the U. S. military reservation ~~and~~ to neighboring cities and return. Inasmuch as the entry or leaving of that military reservation by any person or common carrier is a matter which lies solely within the jurisdiction of, and is subject to, regulation by U. S. Army officers, and for the further reason, as hereinabove pointed out, because the only portion of the public which will be served by the applicants herein are men under their jurisdiction, the wishes of those in command at Camp Kearney should govern. It would be futile to grant certificates of public convenience and necessity for carriers to operate from within Camp Kearney to other points, since the power to enter the reservation lies solely within the Federal jurisdiction.

Colonel Wilbur, the officer in charge of transportation at the Camp, testified that it would be practically impossible to furnish a sufficient number of automobiles to transport the men of the Camp during the rush hours on their so-called "liberty" days, and on the other hand, stated that he felt that as a matter of safety the number of automobiles should be limited. The number of automobiles necessary to handle this traffic will vary as the number of men in the Camp vary.

We believe that the army officers, who have it within their power to restrict any and all vehicles from operation within the reservation, will exercise that power so as to provide the best and safest equipment to transport the soldiers. In view of the statement of Colonel Wilbur that sufficient number of automobiles cannot be had at the time when they are needed, it is our opinion that a certificate of public convenience and necessity should be granted to the applicant herein in order that such equipment as may be available and desired by the military authorities may be placed at the disposal of the soldiers at Camp Kearney for their use, leaving the selection of numbers and types to the officers in charge at Camp Kearney.

Testimony at the hearings developed the fact that a number of the stage companies such as the "Union Auto Stages", "United Stages", "Pickwick Stages", and others, own but very few of the automobiles operating under their respective names and under the tariffs as filed with the

Railroad Commission by said companies. The greater majority of the cars operating under these names are owned by the individual drivers, or parties who hire drivers. These cars are either leased to the stage companies by the trip, day, or month, or, as was shown in a great number of cases, are operated on a percentage basis, whereby the owners of the cars receive a certain percent of the amount collected for the passengers handled by their cars. Others simply pay the stage company a specified amount per day, or otherwise, for the privilege of using the terminal facilities of the stage company selling the tickets.

Cars operated by and under the control of the owners, as indicated above, and in cases where a given amount is paid the stage company by the owner of a car for use of the stage line's terminal facilities are operating in violation of the provisions of Section 3, Chapter 213, Laws of 1917, and such parties whose operations commenced since May 1, 1917, must at once secure permits from the local authorities, and a certificate of public convenience and necessity from this Commission.

No objection is made by the Commission to the practices of stage companies leasing such equipment as may be necessary for the proper conduct of their business, if such a lease promotes permanent and adequate service and guarantees the safety of the public. But the manner in which cars have been operated, as hereinabove stated, does not promote the standard of service which must be maintained by carriers. Neither safety or transportation of the public in dependable fashion can be assured under the present system.

In view of the evidence submitted we are of the opinion that public convenience and necessity require the operation by A. G. Herring of automobile stage service as common carrier of passengers between San Diego and Camp Kearney, and that this application should be granted, subject to the conditions contained in the following order:

O R D E R

A. G. HERRING, having filed an application requesting that the Railroad Commission make its order declaring that public convenience and necessity require the operation by him of an automobile stage service as common carrier of passengers between San Diego and Camp Kearney, a public hearing having been held, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by A. G. Herring of automobile stage service as common carrier of passengers between San Diego and Camp Kearney, provided that this declaration shall not become effective until said A. G. Herring has secured from the Railroad Commission a supplemental order herein, reciting that he has filed certified copies of permits from the City and County of San Diego, as required by Section 3, Chapter 213, Laws of 1917, and provided further that the rights and privileges herein granted shall not be assigned or transferred unless

the written consent of the Railroad Commission to such assignment or transfer has first been secured, and

IT IS HEREBY ORDERED that no vehicle may be operated under this certificate unless such vehicle is owned by the applicant herein, or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 21st day of November, 1917.

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W. H. ...
Alex ...
Frank ...

Commissioners.