

Decision No. 27441.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of TANNER MOTOR TOURS, LTD., a cor-  
poration, for authority to extend  
the southern terminus of its Los  
Angeles Terminal Island transpor-  
tation service.

**ORIGINAL**  
Application No. 19433.

David R. Faries, for Applicant.

A. S. Groocox for Board of Public Utilities  
and Transportation, City of Los Angeles,  
Interested Party.

Gibson, Dunn & Crutcher, by J. Stuart Neary,  
for Los Angeles Railway Corporation, In-  
terested Party.

R. E. Wedekind, for Los Angeles Motor Coach  
Company and Pacific Electric Railway Com-  
pany, Protestants.

Carl Bush, for Hollywood Chamber of Commerce,  
Interested Party.

Eugene Stern, for Hotel Bureau of Hollywood,  
Interested Party.

J. L. Ronnow, for Yellow Cab Company of Califor-  
nia, Protestant (changed to Interested Party  
by letter dated September 7th, 1934).

BY THE COMMISSION:

O P I N I O N

Tanner Motor Tours, Ltd., filed the above entitled ap-  
plication seeking authority to operate automobile passenger and  
hand baggage service between Hollywood and Los Angeles, on the  
one hand, the steamship docks on the Wilmington side of the Los  
Angeles Harbor, on the other, and between Hollywood and the  
steamship docks at Terminal Island.

A public hearing on this application was conducted by Examiner Gorman at Los Angeles on August 7th, 1934, at which time the matter was duly submitted.

A certificate of public convenience and necessity was granted by this Commission's Decision No. 16786, dated May 28th, 1926, to C. C. Tanner, doing business under the firm name and style of Tanner Motor Tours, for the operation of an automobile passenger and baggage service between certain Los Angeles hotels and the Dollar Steamship dock at Terminal Island. Said certificate was transferred to Tanner Motor Livery by Decision No. 20230, dated September 18th, 1928. By Decision No. 22644, dated July 9th, 1930, a certificate of public convenience and necessity was granted to Tanner Motor Livery in lieu of the certificate granted by Decision No. 16786, which certificate reads as follows:

"The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by Tanner Motor Livery, a corporation, of an automobile service for the transportation of passengers and their hand baggage between the docks on Terminal Island and the hotels in the downtown district of the City of Los Angeles, such district being more particularly described as follows:

"Bounded on the north by Third Street; on the east by Los Angeles Street; on the south by Tenth Street, and on the west by Figueroa Street, and from the Biltmore and Alexandria hotels and the city ticket offices of the steamship lines in Los Angeles using the Terminal Island docks to the docks on Terminal Island.

"The route to be followed shall be as follows:

"Leaving Los Angeles via South Park Avenue, thence via Riverside-Redondo Boulevard to Compton; thence via 'Truck Boulevard' to Terminal Island, and returning via the same route."

By Decision No. 22863, dated September 13th, 1930, the certificate granted to Tanner Motor Livery by Decision No. 22644 was transferred to Tanner Motor Tours, Ltd., applicant herein.

Applicant alleges that the original request for a certificate to Terminal Island was made because of the docking conditions then existing at said point, which conditions now prevail throughout the Los Angeles Harbor, and requests that the certificate be amended by substituting the words "Los Angeles Harbor" for the words "Terminal Island." Applicant also requests authority to extend the northerly terminus of said line so as to serve certain hotels in Hollywood. Applicant proposes to render said service for passengers debarking from or embarking upon steamships docking at said harbor and bound from or to ports outside the State of California and does not propose to transport passengers from or to steamships transporting passengers intrastate.

The testimony of applicant's representative, as well as that of representatives of Los Angeles and Hollywood hotels, tour and tourist agencies and the Hollywood Chamber of Commerce, contained in the record of this proceeding, dealt principally with the lack of opportunity, under present means of transportation, of arranging for a per capita fare between certain docks at the Los Angeles Harbor and the hotels of Los Angeles and Hollywood for passengers originating at or destined to points in the United States, outside of California, and foreign countries.

Tanner Motor Livery, as well as Yellow Cab Company of California, at the present time renders limousine and cab service between shipside at Los Angeles Harbor and the hotels at Los Angeles and Hollywood; however, the rates for this service are established on a car basis and not upon per capita basis, so that tour and travel agencies are unable to quote or arrange an individual rate in connection with interstate and foreign trips, as well as "all expense" tours.

The record shows that applicant has affiliations with tour and travel agencies throughout the United States, Canada, Australia, England, South America, Europe and other foreign countries.

It appears that applicant's request for a certificate of public convenience and necessity, for the rendition of automobile passenger service between shipside at the docks in Los Angeles Harbor and Los Angeles and Hollywood hotels, is based principally upon the alleged necessity of affording passengers, at time of purchase of tickets at various points outside of the State of California, including foreign countries, an opportunity of purchasing transportation directly to downtown Los Angeles or Hollywood.

Subsequent to the issuance by this Commission of its decision granting applicant a certificate of public convenience and necessity for the operation of automobile passenger service between certain Los Angeles hotels and the docks at Terminal Island, as previously referred to in this opinion, a decision has been rendered by the Supreme Court of California which bears upon the application herein involved.

It was held by the California Supreme Court in Meyers vs. Railroad Commission, 218 Cal. 316, that this Commission has no authority to deny to carriers, engaged exclusively in interstate or foreign commerce, the right to operate over the highways of this state. The said decision, in part, stated:

"Where a carrier operates exclusively in the transportation of goods in interstate or foreign commerce, he is engaged in interstate commerce, even though he does not himself travel outside, but remains wholly within; the boundary of the state, and the Railroad Commission has no authority to deny to such a carrier a certificate of public convenience and necessity in the absence of any question of local regulation in the interest of public health, security, safety, convenience and general welfare."

Although the above referred to case related to the transportation of merchandise, it is apparent that the same principle of law would apply to the transportation of passengers under similar conditions.

The instant application is specific in its request for a certificate of public convenience and necessity for the operation of automobile transportation service between Los Angeles and Hollywood, on the one hand, and the steamship docks, on the other hand, for the transportation of passengers destined to or originating from ports outside of the State of California. The request is clear-cut, in that it proposes to transport passengers engaged exclusively in interstate or foreign movements and does not propose to transport passengers engaged in an intrastate movement.

In view of the decision in 218 Cal. 316, it would appear that the request for a certificate of public convenience and necessity, for the transportation of passengers engaged in interstate movements, is not within the province of this Commission's jurisdiction to grant. The lack of authority to grant such a certificate should not be construed as a pronouncement as to this Commission's jurisdiction regarding the rates, rules and regulations under which such a service could be rendered. The Commission, by its Decision No. 27377, dated September 17th, 1934, has required all transportation companies operating as common carriers in the transportation of intrastate, interstate and foreign commerce by auto truck between Los Angeles, on the one hand, and Los Angeles and Long Beach Harbors, on the other hand, to submit, for the approval of the Commission, schedules containing the rates, rules and regulations governing such transportation service.

In view of the above decision, we are of the opinion that applicant, prior to the establishment of said service, should submit to the Commission, for its approval, copies of its schedules containing rates, rules and regulations for said service.

We believe it well to point out to applicant that the lack of necessity for a certificate to operate motor coach service between Los Angeles and Hollywood, on the one hand, and the steamship docks at Los Angeles Harbor, on the other hand, for the transportation of passengers engaged in interstate or foreign movements, does not, in our opinion, afford applicant the right to sell transportation on an individual basis between said points unless said transportation is sold as part of transportation for an interstate or foreign movement.

After carefully reviewing the evidence in this proceeding, together with the recent decision of the California Supreme Court, referred to above, we are of the opinion and hereby conclude that the issuance of a certificate of public convenience and necessity for the rendition of automobile passenger service between Los Angeles and Hollywood, on the one hand, and the docks at Los Angeles Harbor, on the other hand, exclusively for passengers engaged in interstate or foreign movements, as requested in the application herein involved, is not within the jurisdiction of this Commission.

O R D E R

Tanner Motor Tours, Ltd., having filed the above entitled application, a public hearing having been held thereon

and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby dismissed.

Dated at San Francisco, California, this 15<sup>th</sup> day of October, 1934.

Leon A. White

W. J. Lee

M. B. Harris

Arthur H. Brown

Francis R. DeWitt

Commissioners.