

Decision No. 27581

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MT. TAMALPAIS & MUIR WOODS TRANSPORTATION CO. (Arthur L. Stewart) for a
certificate of public convenience and
necessity.

Application No. 19660

ORIGINAL

Orla St. Clair, for Applicant.
R. T. Eddy, for The Gray Lines, Inc.
Roy Hildebrand, for Northwestern Pacific Railroad Co.

BY THE COMMISSION -

OPINION

Applicant, an individual, here seeks a certificate of public convenience and necessity to perform a common carrier service for the transportation of passengers, baggage and express between (a) Mill Valley and the top of Mt. Tamalpais, (b) between Mill Valley and Muir Woods, and (c) between Mill Valley, Muir Woods and Mt. Tamalpais and intermediate points.

A public hearing was had before Examiner Brown on November 15, 1934, at San Francisco, and the matter submitted.

Applicant proposes to render two types of service - first, a sightseeing service for tourists between San Francisco and the Muir Woods-Mt. Tamalpais territory, to be rendered in conjunction with the Northwestern Pacific Railroad,¹ second, a service for the benefit of hikers who desire a means of conveyance for a portion of the way along the routes proposed to be served.

Prior to 1930 the Mt. Tamalpais & Muir Woods Railway performed a service similar to that which applicant here proposes. The railroad was abandoned in 1930 and since then the territory between Mill Valley and Mt. Tamalpais and Muir Woods has been² left without any certificated carrier.

¹ Connections will be made with the Northwestern Pacific Railroad at Mill Valley. Through joint fares will also be established.
² Taxicabs are available at Mill Valley but their use is not satisfactory.

There is no common carrier service for those desiring one way transportation between San Francisco and Mt. Tamalpais and Muir Woods nor is there any common carrier service for those desiring either one way or round trip transportation between Mill Valley and Mt. Tamalpais and Muir Woods. The evidence presented by members of the Sierra, Alpine, Contra Costa and Tamalpais Conservation Clubs is particularly strong with respect to the need of service between Mill Valley and Mt. Tamalpais and Muir Woods and intermediate points.

It cannot be said from the evidence here presented that a sightseeing service for those desiring to make a round trip between San Francisco and Mt. Tamalpais and Muir Woods is needed. Two sightseeing carriers are now in the field, i.e., Fialer's, Inc. and The Gray Line, Inc. Fialer's Inc. waived any objection to the granting of the application. The Gray Line, Inc. protested on the ground that traffic would be diverted to applicant. There probably will be some diversion, although it should not be heavy. However, it must be borne in mind that the service here proposed by applicant in its entirety is not being rendered by any certificated carrier. A denial of the application would deprive the public of a service which, on this record, has been shown to be needed in part. It is not practical to restrict applicant to one way service between San Francisco and Mt. Tamalpais, ~~Muir~~ Woods or between Mill Valley and Mt. Tamalpais, Muir Woods and the intermediate points.

The application will be granted.

Arthur L. Stewart 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

A public hearing having been held in the above entitled application, the matter having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the transportation of passengers, baggage and express between (a) Mill Valley and the top of Mt. Tamalpais, (b) between Mill Valley and Muir Woods, and (c) between Mill Valley, Muir Woods and Mt. Tamalpais and intermediate points be, and the same hereby is granted to Arthur L. Stewart, operating under the name of Mt. Tamalpais & Muir Woods Transportation Co., subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
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 applicant herein unless such vehicle is owned by said applicant or is leased by him 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 days from the date hereof.

Dated at San Francisco, California, this 3rd day of December, 1934.

Leon A. Cullen

W. H. Cullen

W. B. Cullen

W. B. Cullen

W. B. Cullen

COMMISSIONERS.