

Decision No. 28733

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Agnes Irene Geer, Executrix of the Estate of Hartley Wood Lowell, also known as H. W. Lowell, Deceased, operating and doing business under the fictitious name and style of Vallejo Bus Company, for Certificate of Public Convenience and Necessity, to operate an auto stage or auto bus line as a common carrier for the transportation of persons between the City of Vallejo, County of Solano, State of California, and Emerald Terrace, Township of Vallejo, County of Solano, State of California.

ORIGINAL

Application No. 20437.

BY THE COMMISSION:

O P I N I O N

In this application Agnes Irene Geer as the executrix of the estate of Hartley Wood Lowell, deceased, has applied for a certificate declaring that public convenience and necessity require the establishment of a service as a common carrier of passengers for compensation between the City of Vallejo and Emerald Terrace, a suburb of Vallejo, and intermediate points.

Applicant alleges as justification for the granting of such certificate that Emerald Terrace is a newly developed residential section contiguous to the City of Vallejo; that there is no means of public transportation between the two points; that the contemplated transportation service will not only serve Emerald Terrace but will in addition serve the transportation needs of several other newly developed residential

sections contiguous to the City of Vallejo along the proposed route, all of which sections are residential in character and now have no public transportation facilities.

Hartley Wood Lowell during his lifetime, did business under the name and style Vallejo Bus Company, maintained and operated an auto stage line between the City of Vallejo and Bay Terrace and Vallejo Annex under certificates heretofore issued by this Commission. The applicant herein alleges that she is the present executrix of the estate of Hartley Wood Lowell and is now engaged in the administration of the affairs of said estate and in particular is managing and operating the business of said Vallejo Bus Company for and on behalf of the estate of said Hartley Wood Lowell, deceased.

This is a matter in which a public hearing does not appear to be necessary and the application will be granted.

Agnes Irene Geer as the administratrix of the estate of Hartley Wood Lowell 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

Agnes Irene Geer as administratrix of the estate of Hartley Wood Lowell, having made application as above set forth,  
THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require

the establishment and operation of an automotive stage service for the transportation of passengers as a ~~highway~~ common carrier for compensation between Vallejo and Emerald Terrace and intermediate points over and along the following route:

Beginning on County Road No. 140 near the central section of Emerald Terrace, thence along said County Road No. 140 and Fleming Avenue to Tuolumne Street; thence south on Tuolumne Street to Tennessee Street; thence west on Tennessee Street to Napa Road; thence south on Napa Road to Alabama Street; thence west on Alabama Street to Marin Street; thence south on Marin Street to Virginia Street; thence west on Virginia Street to Sacramento Street; thence south on Sacramento Street to Georgia Street; in the City of Vallejo, County of Solano, State of California, the terminal of the proposed route within said City; on return from this said point in the City of Vallejo, County of Solano, State of California, to Emerald Terrace in the Township of Vallejo, County of Solano, State of California, as follows: east on Georgia Street from Sacramento Street to Marin Street; thence north on Marin Street to Alabama Street; thence east on Alabama Street to Napa Road; thence north on Napa Road to Tennessee Street; thence east on Tennessee Street to Carroll Street; thence north on Carroll Street to Fleming Avenue; thence east on Fleming Avenue to Tuolumne Street; thence north on Tuolumne Street, Fleming Avenue and County Road No. 140 into the center section of Emerald Terrace.

and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and it is hereby, granted to Agnes Irene Geer, as administratrix of the estate of Hartley Wood Lowell as a separate operating right, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall begin the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and the public a local passenger tariff constructed in accordance with the requirements of the Railroad 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 in so far as they conform to the certificate herein granted, and in addition thereto shall contain a reissue of all rates, rules and regulations now on file with the Commission or rates and rules 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 Railroad 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 obtained.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant 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 20<sup>th</sup> day of April, 1936.

M. Beland  
Leon A. Kelly  
W. H. Cunn.  
W. H. Cunn.  
Frank R. Nelson  
COMMISSIONERS.