

Decision No. 29160

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of ARTHUR L. STEWART for a certi-
 ficate of public convenience and
 necessity to operate a sightseeing
 service.

Application No. 20559

Orla St. Clair, for applicant

Athern, Chandler & Farmer, by F. G. Athern,
 for The Gray Lines, Inc., Protestant.

DEVLIN, Commissioner:

ORIGINAL

OPINION

In this application Arthur L. Stewart asks the Railroad Commission of the State of California for an order certifying that public convenience and necessity require the establishment and operation by applicant Stewart of an automotive service as a common carrier for the transportation of passengers for compensation over the public highways of this state on a continuous two-day all-expense sightseeing trip with one terminus only over a definite route which may be generally described:

Beginning at San Francisco, thence via Golden Gate Ferry to Berkeley, with an alternate route via the San Francisco-Oakland Bay Bridge upon its completion; touring Berkeley; thence to Vallejo, Napa, Staggs Leap, Yountville, St. Helena, Calistoga, Petrified Forest, Mark West Springs, Forestville, Monte Rio and Rio Nido where an over-night stop is proposed.

On the second day from Monte Rio to Sebastopol, Santa Rosa, Glen Ellen, Jack London's home, Sonoma Valley points, Petaluma, Hamilton Flying Field, San Rafael, Mt. Tamalpais, Muir Woods, Sausalito and San Francisco via Golden Gate Ferry with an alternate route via Golden Gate Bridge upon its completion.

Proposed rates for the service as well as time schedules to be observed were duly set forth in exhibits attached to the application.

A public hearing was held at San Francisco at which time the matter was submitted and is now ready for decision.

Applicant alleges as justification for the authority requested that there is not at the present time an all-expense tour of the type he proposes being operated over the above described route.

Applicant testified that he has had practically no local inquiries or requests for a tour of this type and that he has made no personal investigation as to the approximate number of passengers that might be available for such tour. He stated that he has discussed the idea with the representatives of three or four eastern railroad companies and travel bureaus from whom he would expect to receive bookings of tourists groups.

Leo J. Winters, a transportation agent, on behalf of the applicant testified that he had never had any requests for an all-expense tour over the proposed route, but he was of the opinion that it would be attractive as a selling proposition.

The Gray Lines, Inc. protested the granting of the application, J. A. Boyd, its Secretary, testifying and alleging that the proposed route practically parallels its Tour No. 6 which it has operated for a number of years. The only portion not paralleled is that between Burke's Sanitarium and Santa Rosa and between Santa Rosa and Petaluma. That part of applicant's proposed route extending from Burke's Sanitarium to the Russian River resort region and through Sebastopol to Santa Rosa and from Santa

Rosa to Petaluma traveling through Sonoma Valley being the only part of applicant's proposed route which does not actually parallel Tour No. 6 of The Gray Lines, Inc. This witness further testified that for the period 1931 to 1935, both inclusive, protestant had transported over its Tour No. 6 only seventy-eight (78) passengers, the demand for the tour being very small.

Witness Boyd further testified that five other tours of The Gray Lines, Inc. in the east bay district and Mt. Tamalpais region would also be adversely affected by the proposed service. Protestant has available about thirty-seven (37) pieces of sight-seeing equipment with a total seating capacity of approximately eight hundred and sixty-seven (867) persons.

C. J. Sundberg, Traffic Manager for The Gray Lines, Inc., testified that notwithstanding that Tour No. 6 had been advertised more than any other tour no material increase in patronage therefor had developed.

After giving due consideration to all of the evidence adduced and the showing made by applicant, it is readily apparent that applicant has failed to establish public convenience and necessity for the service which he proposes. In fact, the record discloses no more than the applicant's desire to inaugurate the service. Applicant failed to produce a single witness to testify that he would use the service if established. The Commission has consistently held that it cannot grant certificates of public convenience and necessity on the mere hope or assumption that a service once established may develop business.

In view of the foregoing considerations, I recommend the following form of order.

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted, and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity do not
require the service as proposed, and

IT IS HEREBY ORDERED that said application be, and it is,
hereby denied.

The foregoing opinion and order are hereby approved and
ordered filed as the opinion and order of the Railroad Commission
of the State of California.

The effective date of this order shall be twenty (20)
days from the date hereof.

Dated at San Francisco, California, this 5th day
of October, 1936.

M. B. Lewis

Ernest A. White

M. A. Carr

Walter R. Brown

Walter R. Brown
COMMISSIONERS.