

Decision No. 23265

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of

CALIFORNIA-NEVADA STAGES, INC.,
for a certificate of public convenience and necessity to operate an automobile stage line for the transportation of passengers, baggage and express for compensation and as a common carrier between Ben Ali and Roseville, including Army Air Base and Antelope and intermediate points as an extension of existing operating rights.

ORIGINAL

Application No. 20695.

Ware and Ware by Allison Ware, for Applicant.

A. S. Williams for Southern Pacific Railway and Pacific Motor Transport Company, Protestants.

H. A. Encell for W. H. Pimental, interested party.

BY THE COMMISSION:

O P I N I O N

Applicant now conducts automobile stage service between Sacramento and Roseville and Marysville, via Ben Ali, Del Paso Park and Sylvan over highway No. 99-E, under proper authority from this Commission. Applicant now seeks to divert certain of its schedules to establish operation between Ben Ali and Roseville, along the County high-

way and extend service thereby to the Army Air Base, about one mile north of Ben Ali, and the community of Antelope, about four miles south of Roseville and all other points intermediate to Ben Ali and Roseville. The operating right is sought as an extension and enlargement of applicant's present operating rights. Thus it will permit service to all points served by applicant.

A public hearing thereon was conducted by Examiner Williams at Sacramento.

The diversion of service is based on the need of additional service from both Sacramento and Roseville to the new United States Army Air Base which is being built at a cost of approximately \$7,000,000 and which will require, it is expected, a personnel of men, officers and civilian employes of about 2,500. The service proposed will touch the east entrance of this base and continue north along the Southern Pacific tracks serving Antelope. Only one daily schedule each way is now proposed but others will be added as public need may require.

The record shows that many civilian employes will have their homes at Roseville or Sacramento and that the rail service to the two points and intermediate is not suitable for day time needs. Southern Pacific Railway did not protest the passenger privilege sought, being chiefly concerned with the establishment of Railway Express Agency facilities within the base grounds. This protest, however, was not urged, as applicant's proposal at present does not include more than gateway delivery of either passengers or freight. However, applicant expects later to acquire access to the interior of the base.

Five witnesses from Antelope testified that now they have neither rail nor stage service.

W. H. Pimental operates suburban automobile service between Sacramento and Ben Ali, Del Paso Park and Air Base but did not oppose

the application.

Applicant proposes to establish the same rates to Air Base as it now charges to Del Paso Park and to Antelope the same rates as to Twelve Mile House. The express rate proposed is one cent a pound, with a minimum of 25 cents.

Applicant's present certificate which it asks to have enlarged and consolidated with its existing rights to the extent of the service proposed herein contains a restriction prohibiting the transportation of express weighing in excess of one hundred (100) pounds per single package and requires that express be transported on applicant's passenger carrying vehicles only.

The record justifies the granting of the application, on the basis of public convenience and necessity.

California-Nevada Stages is hereby placed on 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

California-Nevada Stages, Inc., having made application as above entitled, a public hearing having been held and the matter having been duly submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the establishment

by California-Nevada Stages, Inc. of an automotive service as a passenger stage corporation defined in Section 2½ of the Public Utilities Act for the transportation of passengers and express between Ben Ali and Roseville, serving all intermediate points, including Army Air Base and Antelope, over and along the following route:

East from Ben Ali, via Ben Ali-Antelope Road to United Stages Army Air Base and to Headquarters or other central point thereon; thence continuing to Antelope via Ben Ali-Antelope Road; thence to Roseville via Ben Ali-Antelope-Roseville Road.

and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted California-Nevada Stages, Inc., applicant herein, only as an extension and enlargement of its operating rights, and consolidated therewith, as heretofore fixed by Decision No. 21143, dated May 24, 1929, on Application No. 15226, and other decisions amendatory or supplementary thereto, and 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 commence the service therein 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 days' notice to the Railroad 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 application in Paragraph 4, Page 3, thereof, in so far as they conform to the certificate herein granted, 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.
6. No single package of express may be accepted for transportation that exceeds one hundred (100) pounds in weight and all express is to be transported on passenger vehicles only.

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 9th day of November, 1936.

M B Herli

Leon Whitely

H A Linn

Greer P. Ware
COMMISSIONERS.

Commissioner Ware did not participate in the disposition of this matter as two of his brothers are attorneys of record.