

Decision No. 23389.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
GLEN S. MARTIN and W. MONROE SEIBOLD,
for a certificate of public convenience
and necessity to operate a local bus and
sightseeing service between certain
points in the vicinity of Palm Springs
and between certain points in the vi-
cinity of Lake Arrowhead, California.

Application No. 20315

Hugh Gordon, for Applicants.

C. W. Cornell, for Motor Transit Company,
Protestant.

David L. Faries, for Tanner Motor Livery,
Protestant.

Charles S. Morrison, Jr. and F. V. Shannon,
for Palm Springs Chamber of Commerce,
Protestant.

H. N. Briggs and Paul F. A. Conway, for
Arrowhead Lake Corporation, Protestant.

BY THE COMMISSION:

O P I N I O N

Under the above numbered application, as amended, Glen S. Martin and W. Monroe Seibold, a co-partnership, seek authority to establish and operate a local bus and sightseeing service as a common carrier for the transportation of passengers in Palm Springs and vicinity from September 15 of each year to June 1 of the following year and in Lake Arrowhead and vicinity from June 1 to September 10 of each year.

Public hearings were held before Examiner McCaffrey on February 14 in Palm Springs and on June 26, July 1, and November 7, 1936, in Los Angeles. The matter, originally submitted on

briefs July 1, was reopened, at the request of applicants, to permit the taking of evidence in connection with their proposal to make certain changes in the operation affecting Palm Springs. Final submission was taken on November 7, 1936, and the matter is now ready for decision.

It appears that applicants contemplate the inauguration of both a local bus and a sightseeing service in the respective communities, generally speaking, of Palm Springs and Lake Arrowhead, the period of operation to be seasonal and to be coordinated in such manner as to permit the use of the same equipment in each area. The Lake Arrowhead area, from a business and population standpoint, is largely a summer resort and Palm Springs, on the other hand, is primarily a winter resort. Under the circumstances, it appears desirable to consider applicants' proposal and the record made in connection therewith in two parts; namely, that part dealing with Palm Springs and vicinity and the other dealing with the Lake Arrowhead area.

Palm Springs and vicinity.

The normal season of business activity in Palm Springs extends over a period of eight or nine months, beginning sometime in September of each year and ending sometime in May or June of the following year. Applicants propose to operate in this community from September 15 to June 1. The proposed service embraces a local bus service of two round trips per day between Palm Springs and Cathedral City (approximately seven miles southeast of Palm Springs) and two "on call" sightseeing tours, one from Palm Springs to Palm Canyon and return, a distance of sixteen miles, and the other from Palm Springs to several date gardens along the Palm Springs-Indio Road and return, a distance of about fifty miles.

The one way fare proposed for the local bus service is

10¢ for Palm Springs proper, 15¢ between Palm Springs and Araby (approximately three miles south), and 20¢ between Palm Springs and Cathedral City, with provision for half-fare tickets for school children. A round trip fare of \$1.00 per passenger for the sightseeing tour to Palm Canyon and \$5.00 per passenger for the sightseeing tour to the date gardens, with a minimum requirement of four passengers for each trip, is proposed.

The record shows that the present stage service available to the community is limited to two through service schedules per day of the Pacific Greyhound Lines, Inc. and a local automobile service operated by C. W. Crandall and consisting of two round trips daily between the Southern Pacific Company's depot and Palm Springs.⁽¹⁾ There are, however, several "for hire" automobile agencies in Palm Springs, among which is Tanner Motor Livery, one of the protestants herein.

The showing in behalf of the application was made through the testimony of applicant, Glen S. Martin, several public witnesses and a petition signed by approximately one hundred and twenty-five people, a large number of whom are in business in Palm Springs. Opposition to the application, especially in respect to the proposed sightseeing service, was advanced primarily by Tanner Motor Livery, which largely serves the community by means of taxicabs and chartered cars with or without drivers. A number of public witnesses also opposed the application, feeling that there is no need for the service and that its inauguration would unnecessarily increase traffic hazards and gener-

(1) The Southern Pacific Company depot for Palm Springs is about 10 miles from Palm Springs and the operation of C. W. Crandall is certificated under the name of Palm Springs Stage and Express Company.

ally lower property values by lessening the exclusiveness of the community.

The Palm Springs Chamber of Commerce, while originally opposing the application, mainly because of traffic conditions, subsequently, as a result of a more restricted service offer, withdrew its objection subject to certain conditions. ⁽²⁾

Careful analysis of the record indicates that there is a need for a local bus service between Palm Springs, Araby, Cathedral City and intermediate points, all of which, in general, show signs of extremely rapid growth. ⁽³⁾ The areas outside of Palm Springs, especially Cathedral City, are given over mostly to the development of modest homes for workmen and people employed in the various enterprises in Palm Springs. Children from these outside areas are compelled to go to school in Palm Springs and a substantial number from Cathedral City at the present time are being hauled under contract by applicants. The proposed bus operation would afford reasonable transportation service to such areas, either for shopping or working purposes in Palm Springs.

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- (2) The original application contemplated a local bus operation along Palm Canyon Drive (the main street in town), from Stevens Road to Camino Encanto, a distance of approximately 4.3 miles, the schedule to run every half hour from 6:00 A.M. until midnight. In the application, as amended, this offer of service, among others, was withdrawn by applicants. The Palm Springs Chamber of Commerce thereafter adopted a resolution (Exhibit No. 14), favoring the application as amended but subject to the condition that none of the proposed operation be conducted on Palm Canyon Drive. This subsequently was agreed to by applicants.
- (3) The rapidity of community growth is illustrated by the testimony of applicant, Martin, who, on June 26, 1936, stated that between 30 and 40 homes had been either constructed or started in Cathedral City and vicinity since the hearing on February 14, 1936, and who, on November 7, 1936, testified that the number of school children hauled from Cathedral City to Palm Springs had grown from 18 to 42 since the aforesaid hearing of February 14, 1936, and were further increasing at the rate of 5 children per week.

As to the demand for sightseeing service, it appears from the record that the charter car agencies in Palm Springs are operating under rates equivalent to or less than those proposed by applicants. Applicants, as stated heretofore, propose a rate of \$1.00 per passenger for the trip to Palm Canyon and \$3.00 per passenger for the trip to the date gardens, but in each case, with a four-passenger minimum requirement, or a charge of \$4.00 and \$12.00 per trip, respectively. The rates of Tanner Motor Livery are based on the size of the car chartered. Five and seven-passenger cars, with driver, can be secured at \$3.00 and \$5.00, respectively, for the trip to Palm Canyon and, similarly, the same accommodations can be secured at \$6.00 and \$12.00, respectively, for the trip to the date gardens. The Palm Springs Garage charges only \$3.00 and C. W. Crandall \$4.00 for the trip to Palm Canyon, with either a five or seven-passenger car.

Applicant, Glen S. Martin, testified that when employed by Tanner Motor Livery he had received requests for trips on an average of four or five per week and anticipated that he would make one trip per day, with an average haul of six passengers, to the date gardens and two trips per day, with an average haul of six passengers per trip, to Palm Canyon during the season's so-called four-months' period. On the other hand, Tanner Motor Livery evidenced, from a check of its records (Exhibit No. 12), that only thirty-seven trips to the date gardens and forty-two to Palm Canyon (carrying, on both trips, usually two or three people), had been made for the entire sea-

(4)
son of the year 1935-1936, and, through witnesses, testified that one-third of the people were hauled in small cars at the low rate and, further, that, with twenty-five cars for hire, there never had been a time when cars were not available to meet any demand made for service. It is obvious, from the record, that the operations of the other charter car agencies are of a minor nature, as compared with that of Tanner Motor Livery.

The record indicates that most people in Palm Springs, as naturally would be expected, have their own automobiles. The testimony does manifest, however, that C. W. Crandall last season (nine months) carried a total of five hundred and fifty-two passengers to and from the Southern Pacific depot and Palm Springs. While the record is silent on the point, it safely may be inferred that not all of the passengers were tourists and that undoubtedly some were residents of Palm Springs traveling to and from Los Angeles and other points either on business or social trips. Likewise, the record is silent on what number of tourists, if any, came to Palm Springs via Pacific Greyhound Lines, Inc. It is sufficient to point out that, even though all passengers carried by C. W. Crandall were tourists and assuming that the Pacific Greyhound Lines, Inc. carried an equal number to Palm Springs and that the combined group, including those served by Tanner Motor Livery, would request sightseeing service from the applicants herein, the estimate of traffic by applicant, Martin, would still be considerably in excess of such a

(4) On the basis of an average of 3 people per trip, this is equivalent to a haul of 237 passengers for the entire season, as compared to a total of 2,160 passengers computed from the estimate of applicant Martin, for the four-month period.

supposititious condition.

Bearing this in mind, together with the testimony of public witnesses regarding sightseeing service and the rates already in effect by the existing charter car agencies the contentions of applicants are left with but little conviction. The showing as to public convenience and necessity for the proposed sightseeing service in Palm Springs and vicinity is not convincing.

The Lake Arrowhead area.

The period of sustained business activity in the Lake Arrowhead area, while spread over eight or nine months, actually is at its highest intensity during the summer vacation period. It is in this period - that is, between June 1 and September 10 of each year - that applicants propose to operate a local bus and sightseeing service.

The bus service offered is between Blue Jay Camp and Cedar Glen, communities located near the State Highway south of Lake Arrowhead and approximately three miles apart. One trip each hour, in each direction, between the hours of 8:00 A.M. and 12:00 midnight, is proposed. The sightseeing service contemplated is an "on call" service from Lake Arrowhead to Big Bear Lake and return, a distance of approximately fifty miles.

The fare proposed for the bus service is 10¢ per trip each way and that for the sightseeing service \$3.00 per passenger, with a minimum requirement of four passengers.

The present service in effect consists of one round trip per day by Motor Transit Company from San Bernardino via Blue Jay, Lake Arrowhead, Big Bear City, Pine Knot Depot and return, with an "on call" service to Cedar Glen. The fare for the trip to Big Bear City and return from Lake Arrowhead is

\$2.25 and that for the "on call" service (one trip each way per day), from Blue Jay to Cedar Glen by a circuitous route, is 20¢ one way and 35¢ round trip.

Opposition to the proposed operation comes from two sources, the Motor Transit Company and Arrowhead Lake Corporation. Motor Transit Company opposes the operation on the ground that public convenience and necessity does not warrant the proposed service, and by exhibits (Nos. 9, 10 and 11) and testimony endeavored to show that its present service not only filled the needs of the community but that the service actually was being operated at a loss and, alleged that when, during more prosperous times, more frequent service was given, such operations only increased the loss. Arrowhead Lake Corporation opposes the service offer on the ground that the period of operation is not in keeping with the seasonal activities of the area and because, if authorized by the Commission, it might prevent another carrier from coming into the territory who would be willing to operate over the entire season or even the year around.

The record shows that, outside of applicant Martin's testimony and that of one other witness, the applicants have relied entirely on one petition (Exhibit No. 1), circulated in Palm Springs, and two petitions (Exhibits Nos. 4 and 5), circulated in the Lake Arrowhead area, to show public convenience and necessity for the proposed operation in said Lake Arrowhead area. The first mentioned petition was signed by four people, then located in Palm Springs, who were interested in the Lake Arrowhead area as well as that of Palm Springs and vicinity. Said petition applies to applicants' entire proposal for the two respective communities. The other two petitions represent, in all, approximately one hundred people and are limited to ap-

applicants' proposed service between Blue Jay and Cedar Glen.

Consideration of the proposed fare of applicants for the round trip between Lake Arrowhead and Big Bear Lake, the existing lower fare of the scheduled operation of the Motor Transit Company (but with its limitations as to time and service characteristics), the past unfavorable experience of Motor Transit Company with more frequent schedules, and more particularly the limited nature as well as the character of the showing made by applicants as to public convenience and necessity for the proposed sightseeing service between Lake Arrowhead and Big Bear Lake, discloses no logical course to follow other than to deny the application in such respect.

The showing as to the need for a local bus service between Blue Jay and Cedar Glen, as proposed by applicants, is fortified by the signatures of approximately one hundred people and by the fact that there is no direct or frequent service between said points. While the weight to be given to petitions obviously cannot seriously be compared to that of public witnesses subjected to cross-examination, nevertheless, the proposal appears to have some possibilities, though undoubtedly not as productive, from a traffic standpoint, as the estimate of passenger use (five passengers per trip), made by applicant Martin, would indicate. That the undertaking at the outset would be profitable is extremely doubtful. Coordinated, however, with the Palm Springs operations, it may well serve a public need and the applicants who apparently from the evidence are financially able should be permitted to pioneer such operation, if they elect so to do.

Careful consideration of the application and the record as a whole leads to the conclusion that authorization for

the sightseeing service should be denied but that applicants should be authorized to establish and operate the local bus service proposed in the respective communities of Palm Springs and vicinity and the Lake Arrowhead area. The Order will so provide.

Glen S. Martin and W. Monroe Seibold are 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 by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by Glen S. Martin and W. Monroe Seibold, a co-partnership, of a service as a passenger stage corporation, as that term is defined in Section 2-1/4 of the Public Utilities Act, for the transportation of passengers between:

- (a) Palm Springs and Cathedral City and intermediate points as a seasonal service from approximately September 15th to June 1st over and along the following route:

Starting at the junction of Indian Avenue with Canebrake Road, thence south along Indian Avenue to its junction with the State Highway, thence along said State Highway to Cathedral City via Omar's Tent and Araby.

- (b) Blue Jay and Cedar Glen via State Highway No. 59-E as a seasonal service from approximately June 1st to September 10th.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefore be, and the same hereby is granted to Glen S. Martin and W. Monroe Scibold, to perform the above described service, subject, however, to the following conditions:

- (1) Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
- (2) Applicants shall commence the service herein authorized between Palm Springs and Cathedral City and intermediate points within a period of not to exceed thirty (30) days after the date hereof and shall commence the service herein authorized between Blue Jay and Cedar Glen by not later than June 1, 1937, 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 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, as amended, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
- (3) Applicants 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 (5) 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 or 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 applicants herein unless such vehicle is owned by such ap-

plicants or is leased by applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application be, and the same hereby is denied.

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 21st day of December, 1936.

M. B. Harris
Leon Schubert

William H. Hays

Commissioners.