

Decision No. 29449

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of SAN QUENTIN STAGE COMPANY
 a corporation, for a certificate of
 public convenience and necessity to
 transport newspapers on its buses
 as a common carrier between San
 Rafael and San Quentin, California.

Application No. 20924

BY THE COMMISSION:

ORIGINALO P I N I O N

By this application and amendment thereto, San Quentin Stage Company, a corporation, seeks a certificate of public convenience and necessity from this Commission as an enlargement of its present operating right for the transportation of passengers as a common carrier between San Rafael and San Quentin so as to permit the carrying of newspapers on its passenger stages.

Applicant alleges that through inadvertence and error newspapers have heretofore been transported on its busses although no authority so to do had been obtained nor were there ever any rate filings made. Applicant further alleges that the practice of transporting newspapers was started by its predecessors in interest and the present owners continued such service.

The instant application seeks proper authorization of such service and evidences good faith on the part of San Quentin Stage Company to rectify their error. Inasmuch as it appears that there exists no other means of transporting newspapers between the termini named, it would seem to be in the public interest to grant the authority prayed for. No other common carriers being involved, a public hearing does not appear necessary. The application will be granted.

San Quentin Stage Company 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that Public Convenience and Necessity require the enlargement of the common carrier operating right of San Quentin Stage Company between San Rafael and San Quentin to include the transportation of newspapers on its passenger stages only incidental to the transportation of passengers and subject to the following restrictions:

- (1) The total number of packages per day of one issue of any newspaper shall be considered as one shipment; all shipments to be delivered by the shipper either at the depot of the Northwestern Pacific Railroad Company at San Rafael or at the depot of the San Quentin Stage Company at San Rafael.
- (2) The transportation of said newspapers shall be only on the regular schedules of the stages operated by applicant between the points above named.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to San Quentin Stage Company 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 and stipulating therein that said certificate is granted as an enlargement of applicant's existing right and not as a new and separate right.
- (2) Applicant shall commence 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 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 so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
- (3) 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.
- (4) 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.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 11th day of

January, 1937.

Walter H. Hays
Leon C. Hays
Frank R. Hays

COMMISSIONERS