

Decision No. 29791

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FIALER'S, INC., a corporation, to)
operate alternate route over Golden)
Gate Bridge between San Francisco and)
Marin County; also for certificate)
of public convenience and necessity)
to operate additional sightseeing)
tour from San Francisco via Golden)
Gate Bridge, Waldo, Sausalito and)
Southern Pacific-Golden Gate Ferries,)
Ltd.)

Application No. 21190

BY THE COMMISSION:

ORIGINAL

O P I N I O N

In this application Fialer's Inc. is asking for authority to operate its present sightseeing tours between San Francisco and Marin County points over the new Golden Gate Bridge, as an alternate route, in addition to using the common carrier ferry routes. Applicant also seeks a certificate to operate an additional sightseeing tour from San Francisco via the Golden Gate Bridge over the new highway to Waldo Point, returning to San Francisco via Highway 101 to Sausalito, thence to San Francisco via either the Golden Gate Bridge or the common carrier ferry route.

The applicant proposes to operate on the proposed new tour the same type of equipment as it is authorized to operate under certificates of public convenience and necessity heretofore granted.

The applicant proposes to charge for such tour the rate of \$1.50 per passenger which will include the payment of the established toll for transportation across the Golden Gate Bridge.

Applicant alleges as justification for the granting of certificate herein requested that the opening of Golden Gate Bridge will constitute a new and attractive sightseeing feature for the residents of, and tourists visiting, San Francisco, that applicant is receiving inquiries in regard thereto and requests for the inauguration of a tour as herein proposed.

Inasmuch as a waiver of protest to the granting of the authority herein requested has been received from the only competing sightseeing carrier, a public hearing herein does not appear necessary and the application will be granted.

Fialer's Inc. 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

Fialer's, Inc. having made application therefor and the Commission being fully advised therein,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the establishment and operation of a sightseeing transportation service by means of standard type sedan or limousine motor vehicles seating

not more than seven passengers beginning at San Francisco and thence over the public highways and the Golden Gate Bridge and the new highway to Waldo Point returning to San Francisco via Highway 101 to Sausalito, thence to San Francisco via either the Golden Gate Bridge or the common carrier ferry route.

IT IS HEREBY ORDERED that a certificate therefor is hereby granted to Fialer's, Inc. 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 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 one day's 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 set forth in the application 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 one day's 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.

IT IS HEREBY FURTHER ORDERED that Fialer's, Inc. may, at its option, in the conduct of its sightseeing tours between San

Francisco, Muir Woods and Mt. Tamalpais, operate such tours via Golden Gate Bridge and/or common carrier ferry route between San Francisco and Sausalito provided that applicant shall within thirty (30) days from the date hereof, and on not less than one day's notice to the Railroad Commission, file supplements to its tariffs and a time schedule giving effect to the optional routing herein authorized.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 24th day of May, 1937.

Leon Whitley
Frank R. Allen
Raymond
Ray S. Allen
COMMISSIONERS.