

Decision No. 30892

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
W. H. PIMENTEL, dba Pierce Arrow Stages)
and/or Pierce Arrow Stage Lines, for an)
extension of his operative rights to)
operate automobile passenger stages (1))
to the California-Nevada State Line near)
Brockway, California, and (2) to the)
California-Nevada State Line near)
Lakeside, California; and to amend Rule)
No. 1 in the Rules and Regulations on)
file in Express Tariff No. 2 of applicant)
in connection therewith.)

ORIGINAL

Application No. 21388.

BY THE COMMISSION:

O P I N I O N

By this application W. H. Pimentel, operating under the name and style of Pierce Arrow Stages, seeks authority from the Commission to extend and enlarge his existing operative right as a common carrier of passengers, baggage and express between Sacramento and Lake Tahoe points via Placerville, so as to permit him to transport said passengers, baggage and express between Brockway and the California-Nevada State Line, a distance of approximately one mile, and between Lakeside and the California-Nevada State Line, a distance of approximately one-fourth of a mile. In this application, as originally filed, applicant also sought authority to further amend his certificate so as to permit of the transportation of express in single packages up to one hundred (100) pounds in lieu of his currently restricted express service now limited to thirty (30) pounds, excepting only shipments of automobile parts. Subsequently, by letter dated August 14, 1937, Mr. Pimentel, through counsel, advised the Commission that he would waive con-

CORRECTION

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HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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ORIGINAL

Application No. 21362.

BY THE COMMISSION:

O P I N I O N

By this application W. H. Pimentel, operating under the name and style of Pierce Arrow Stages, seeks authority from the Commission to extend and enlarge his existing operative right as a common carrier of passengers, baggage and express between Sacramento and Lake Tahoe points via Placerville, so as to permit him to transport said passengers, baggage and express between Brockway and the California-Nevada State Line, a distance of approximately one mile, and between Lakeside and the California-Nevada State Line, a distance of approximately one-fourth of a mile. In this application, as originally filed, applicant also sought authority to further amend his certificate so as to permit of the transportation of express in single packages up to one hundred (100) pounds in lieu of his currently restricted express service now limited to thirty (30) pounds, excepting only shipments of automobile parts. Subsequently, by letter dated August 14, 1937, Mr. Pimentel, through counsel, advised the Commission that he would waive con-

sideration of his request for enlargement of his express right, and desired that his application be given consideration only on the basis of an extension and enlargement of his service as now held and restricted.

In justification of the granting of the authority herein sought, applicant alleges that since the inception of his service to Lake Tahoe, the territory between Brockway and Lakeside and the California-Nevada State Line has undergone considerable development, and at the present time there are numerous residences, cabins and summer cottages in this intervening territory occupied by persons seeking transportation, and constant demand is being made upon applicant to provide such transportation; that by reason of the description of the termini points as Lakeside and Brockway in the present right of applicant, there is left the small portions of intrastate territory referred to herein without certification.

The purpose of the instant application is to clarify this situation and enable applicant to provide the service herein described, which will be operated without change of rates or schedules.

With the assurance of applicant that he waives consideration of his request for enlargement of his express rights, pending protests to the granting of this application have been withdrawn. Necessity for a public hearing in this matter being not now apparent, and the authority sought appearing to be in the public interest, the application will be granted ex parte in so far as it requests authority to extend and enlarge the existing rights of this carrier as restricted, and will be dismissed as to that part requesting an enlargement of the weight limitation now imposed on the express service of this operator.

W. E. Pimentel 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 establishment and operation by W. E. Pimentel, operating under the name and style of Pierce Arrow Stages, of a common carrier automotive service for the transportation of passengers, baggage and express as a passenger stage corporation, as such is defined in Section 2-1/4 of the Public Utilities Act, between Brockway and the California-Nevada State Line, and between Lakeside and the California-Nevada State Line, as an extension and enlargement of applicant's existing right as acquired under authority of Decision No. 29584, dated March 8, 1937, consolidated therewith and subject to each and every restriction and limitation heretofore imposed thereunder.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to W. E. Pimentel, operating under the name and style of

Pierce Arrow Stages, 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 three (3) 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 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 three (3) 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.

IT IS HEREBY FURTHER ORDERED that in all other respects Application No. 21388 be and the same hereby is dismissed.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 7th day of

September, 1937.

Walter M. [Signature]
Leon Whittell

W. L. [Signature]
Commissioners.