

Decision No. 30784

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
H. C. McCULLOUGH for a certificate }
of public convenience and necessity(Application No. 21576
to conduct a tour service between }
Monterey and Big Sur. }

JOHN H. THOMPSEN, of Thompson & Lenehan, for Applicant.

BY THE COMMISSION:

O P I N I O N

In this application H. C. McCullough seeks a certificate of public convenience and necessity authorizing him to establish and operate a round-trip sightseeing service as a passenger stage corporation in general between Monterey and Big Sur State Park.

A public hearing was had before Examiner Paul at Monterey and the matter having been duly submitted is now ready for decision.

While the proposed service is typically of a sightseeing or touring nature it differs to some extent from the customary sightseeing service which usually has but one common point of origin and destination on any given tour. The chief point of interest herein is Big Sur State Park approximately thirty-seven miles southerly from Monterey. Pacific Grove, Carmel and Carmel Highlands are intermediate to Monterey and Big Sur State Park. Applicant proposes to provide a round-trip tour service for passengers from each of the four points viz; Monterey, Pacific Grove, Carmel and Carmel Highlands to Big Sur State Park and return such passengers to but not beyond the point of origin of said passengers.

The fare to be charged for the tour beginning and ending at Monterey and at Pacific Grove is \$3.00, for that beginning and

ending at Carmel is \$2.50, and for the tour beginning and ending at Carmel Highlands is \$2.00.

Between the approximate dates June 1 to September 1 of each calendar year, applicant proposes to operate one daily round-trip schedule when one or more passengers present themselves for the tour. At all other times applicant proposes the same service only when two or more passengers present themselves for said tour.

The applicant testified that he has had numerous requests at various times for a sightseeing tour of the type herein proposed and quite often conducts tours on a charter car basis over the herein proposed route for which he makes a flat charge of \$8.00 regardless of the number of passengers. He is now operating a taxi service in Monterey and vicinity using in such service four five-passenger late model Buick sedans and one seven-passenger 1932 Model Packard sedan. These cars are all of the sedan or limousine type and cannot be recognized as the usual taxicab. The equipment is all in a good state of upkeep and appearance. It is this equipment which applicant will use in the herein proposed service. The record shows that applicant has had many years of experience in handling passenger stage equipment and passengers. He was employed at one time by Pickwick Stages System and Pacific Greyhound Lines as a driver.

Mr. Spencer, Assistant Manager of the San Carlos Hotel at Monterey, testified that during the summer season his hotel receives numerous daily requests from his guests and others seeking information in regard to transportation facilities to enable them to view the many points of scenic beauty of the Monterey Peninsula district. It is his opinion that a service of the type offered will fill a long felt need and be of distinct service and benefit

to the entire community. Other witnesses were of the same opinion.

Mr. Dekker, President of the Monterey Chamber of Commerce, testified that at a regular meeting of said chamber it was unanimously resolved that the city of Monterey and the surrounding community has a definite need for a touring service such as that offered by applicant.

There was no protest to the granting of the application and the record clearly shows that there is a definite public need for the proposed service and the application will be granted.

H. C. McCullough 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.

ORDER

A public hearing having been held thereon, the matter duly submitted and the Commission now being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by H. C. McCullough of a sightseeing service as a passenger stage corporation, as that term is defined in Section 2½ of the Public Utilities Act, for the continuous round-trip transportation of passengers whose point of origin and destination is either Monterey, Pacific Grove, Carmel or Carmel Highlands, provided that on the return trip no passenger may be transported through or

beyond said passenger's point of origin, said service to be conducted over and along State route No. 1 between Monterey and Big Sur State Park via Pacific Grove, Carmel and Carmel Highlands, detouring to Carmel Mission, the return movement being over the same route.

IT IS ORDERED that a certificate of public convenience and necessity therefor is granted to H. C. McCullough, 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 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 exhibit attached to 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 five days' notice to the Railroad Commission and the public, a time schedule or 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.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this _____ day of _____, 1938.

Walter M. ...
Leon Whitell
James ...
Robert ...
Ray L. Riley
COMMISSIONERS.