

Decision No. 36803

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
D. MOYERS for a certificate of public)
convenience and necessity to transport)
passengers, baggage and express between)
Patterson and Modesto, and to consoli-)
date same with remainder of Applicant's)
system.)

Application No. 21834

ORIGINAL

BY THE COMMISSION:

O P I N I O N

In this application D. Moyers is requesting an extension and enlargement of his present passenger stage certificate authorizing the transportation of passengers, baggage and express between Patterson and Modesto via Mountain View School, Turlock and Ceres over and along Glendora Highway, Las Palmas Avenue and U.S. Highway No. 99, subject to the restriction that no passengers, baggage or express are to be picked up or discharged at Modesto or at Turlock or at any point intermediate thereto except when originating at or destined to another point on the lines of applicant and, subject to the further restriction, that in the handling of express no single package shall be accepted for shipment that weighs in excess of one hundred pounds, and all such express to be transported on passenger vehicles except as to shipments transported for and through the agency of the Railway Express Agency, Incorporated, and milk and cream, and empty containers therefor, when being transported to or from a rail junction point in connection with rail transportation thereof.

The proposed passenger fares to be established in connection with this service are those shown in Exhibit B attached to the application. Through fares to points on Pacific Greyhound Lines

via Modesto or Turlock will be made on the basis of combinations over Modesto or Turlock. Through fares to points on the lines of applicant will be made on the basis of combinations over Los Banos.

Proposed express rates to be assessed in connection with this service will be in accordance with Moyers Stages Local Express Tariff No. 1, C.R.C. No. 1.

Proposed baggage rates to be assessed are those shown in Moyers Stages Local Baggage Tariff C.R.C. No. 2, both of which tariffs are now on file with the Commission.

Applicant proposes one daily round-trip schedule leaving Modesto at 9:00 A.M. arriving at Patterson at 9:50 A.M. and continuing to and arriving at Los Banos at 11:10 A.M. The returning schedule leaves Los Banos at 4:25 P.M., Patterson at 5:22 P.M. and arrives at Modesto at 6:10 P.M.

On the northbound schedule service between Mountain View School and Modesto, at the option of applicant, may be operated direct to Modesto instead of via Turlock, except when transporting passengers from points west of Mountain View School who are destined to points from Turlock to Ceres inclusive.

As justification for the authority herein sought, it is alleged that, at the present time, no common carrier passenger service is available between Modesto and Turlock and intermediate points and points intermediate to such points and Patterson, on the one hand, and Patterson and other points on applicant's lines, on the other hand. Applicant has had numerous requests for the proposed service. The establishment of such service will provide additional transportation facilities to the so-called West side territory between Patterson and Los Banos as well as furnishing an additional outlet for traffic originating in said West side district

destined to points north of Modesto and south of Turlock served by other transportation facilities.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted as set forth in the order following this opinion.

D. MOYERS 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by D. Moyers, doing business as Moyers Stages, of an automotive service as a passenger stage corporation, as defined in Section 24 of the Public Utilities Act, between Patterson and Modesto and intermediate points via Mountain View School, Turlock, Keyes and Ceres over and along Glendora Highway, Las Palmas Avenue and U.S. Highway No. 99, with diversion to Modesto from Mountain View School at the option of applicant, as an extension and enlargement of applicant's operating rights heretofore created by Decision No. 28868, on Application No. 20397, subject to the restrictions that

1. No passengers, baggage or express are to be picked up or discharged at Modesto or at Turlock, or at

any point intermediate thereto, on U.S. Highway No. 99 except when such passengers, baggage or express originate at or are destined to other points on the lines of the applicant,

2. In the transportation of express no single package shall be accepted for transportation which weighs in excess of one hundred pounds and all express shall be transported on passenger vehicles only except shipments transported for and through the agency of Railway Express Agency, Incorporated, and milk and cream shipments, and empty containers therefor, when such shipments are being transported to or from a rail junction point in connection with rail transportation.

IT IS ORDERED that a certificate of public convenience and necessity therefor is granted to D. MOYERS, doing business as Moyers 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 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 25th day of
April, 1938.

Malcolm Mac
Leon A. Whelan
George R. Dean
Ralph D. Hefner

COMMISSIONERS.