

Decision No. 31477

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
JOHN C. HASTIE for a certificate of  
public convenience and necessity  
authorizing applicant to establish and  
operate an automotivo stage service  
for the transportation of passengers  
and/or property between Banning and  
Twenty Nine Palms.

Application No. 22337

BY THE COMMISSION:

O P I N I O N

In this application John C. Hastie requests authority to establish and operate an automotive service as a passenger stage corporation, as such term is defined in section 24 of the Public Utilities Act, for the transportation of passengers, baggage, and property between Banning and Twenty Nine Palms and intermediate points, subject to the restriction that no service is to be conducted locally between Banning and Whitewater and intermediate points and a further restriction that no packages weighing in excess of seventy-five pounds each will be transported and no shipment from one consignor to one consignee shall exceed one hundred pounds in one day.

Applicant alleges that the following conditions exist which are relied upon as justification for the authority sought.

That by Decision No. 29551, dated February 19, 1937, on Application No. 20947, the Commission granted to Miles M. Gilbert, a certificate of public convenience and necessity for the operation of an automotive stage line for the transportation of persons between Banning and Twenty Nine Palms, via Palm Springs; that the service between such points has not been conducted since July 1, 1937, and is not now being conducted; that there has existed a public need for

a passenger stage service and that such need now exists; that applicant will use in service an eleven-passenger vehicle of modern design; and, that applicant does not propose any service that will duplicate or conflict with the rail service now rendered by the Southern Pacific Company or the stage service rendered by Pacific Greyhound Lines between Banning and Whitewater or Southern California Freight Lines between the proposed termini. At this time the only public freight carrier serving Twenty Nine Palms is the Southern California Freight Lines and since the discontinuance of the Gilbert operations there is no passenger service to and from that point.

M. M. Gilbert has indicated in writing that he will offer no protest to the proposed service because he does not contemplate a resumption of service under the certificate heretofore granted to him.

Southern California Freight Lines has no objection to the granting of the authority requested provided,

"that the applicant is restricted to handling of express to shipments which are carried on the vehicle used in the transportation of passengers and will only handle packages weighing 75 pounds or less and that no shipment from any consignor to one consignee shall exceed 100 pounds in one day."

In view of such waivers of protest and the proposed restrictions a public hearing does not seem to be necessary. The proposed service appearing to be in the public interest will be granted.

John C. Hastie 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 John C. Hastie of an automotive service as a passenger stage corporation as defined in section 24 of the Public Utilities Act for the transportation of passengers, baggage, and property between Banning and Twenty Nine Palms and intermediate points over and along U. S. Highway No. 60 between Banning and Whitewater, thence over and along the public highways between Whitewater and Twenty Nine Palms via Morongo Valley and Warrens Wells.

IT IS ORDERED that a certificate of public convenience and necessity therefor is hereby granted to John C. Hastie subject to the following restrictions and conditions:

1. No passengers, baggage nor property shall be transported locally between Banning and Whitewater and intermediate points.
2. In the transportation of property no package nor article exceeding seventy-five (75) pounds in weight, nor any shipment from one consignor to one consignee in one day exceeding one hundred (100) pounds in weight shall be transported, and all property shall be transported on passenger vehicles only.
3. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
4. 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.
5. 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.

6. 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 discontinuence, sale, lease, transfer or assignment has first been obtained.

7. 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 the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of

November, 1938.

Ray Swearing  
Leon A. Whittell

Ray L. Riley

\_\_\_\_\_  
COMMISSIONERS