

ORIGINAL

Decision No. 21667

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of TANNER MOTOR TOURS, LTD., a corporation, for a certificate of public convenience and necessity to operate sight-seeing bus services from Palm Springs, Riverside County, State of California, to attractions in that vicinity.

} Application No. 21667

In the Matter of the Application of GLENN S. MARTIN (substituted for Martin and Seibold) for certificate of public convenience and necessity to operate a local bus and sightseeing service as a common carrier between Palm Springs and Garnet, Bar B Ranch, La Quinta, Palm Canyon, Smoke Tree Ranch and other points in the vicinity of Palm Springs, and between certain points in the vicinity of Lake Arrowhead, California.

} Application No. 20315

FARIES & McDOWELL, by McIntyre Faries, for Tanner Motor Tours, Ltd. in Application No. 21667; protestant in Application No. 20315.

GLENN S. MARTIN, in Propria Persona in Application No. 20315.

BY THE COMMISSION:

O P I N I O N

Tanner Motor Tours, Ltd. in Application No. 21667, as amended, seeks a certificate of public convenience and necessity to establish and operate a seasonal sightseeing service over three different routes each of which has as a single terminus Palm Springs.

A public hearing was held in this matter on February 4, 1938, at which time it was submitted. Later, pursuant to an application therefor, the order of submission was set aside and the proceeding was reopened for the introduction of additional evidence.

By Decision No. 29389, on Application No. 20315, Glenn S. Martin and W. Monroe Seibold were granted a certificate to establish and operate an automotive service for the transportation of passengers between Palm Springs and Cathedral City and between Blue Jay and Cedar Glen. Blue Jay and Cedar Glen are in the vicinity of Lake Arrowhead. The request for authority to establish a sight-seeing service in the vicinity of Palm Springs and a separate sight-seeing service in the vicinity of Lake Arrowhead was denied. Subsequently by Decision No. 29836, Glenn S. Martin was authorized to acquire sole ownership of the operative right granted by Decision No. 29389. In compliance with a written request therefor, the Commission reopened the proceedings on Application No. 20315 with respect only to that portion of said proceeding theretofore denied by Decision No. 29389.

A public hearing on the above matters was had before Examiner Paul at Palm Springs, on October 14, 1938, at which additional evidence was offered and the matters having been submitted are now ready for decision.

Tanner Motor Tours, Ltd. protested the granting of the application of applicant Martin. No protest was offered to the application of Tanner Motor Tours, Ltd.

Tanner proposes tours over three routes, each of which begins and ends at Palm Springs, during the season from approximately October 1 to May 1 of the following year. No tour will be operated unless a minimum of four tickets has been sold for each trip. The proposed tours are as follows:

The Palm Springs-Indio-La Quinta Tour is to be operated twice daily during the season, over a route approximately fifty-five miles in length, visiting points of interest including Indian Wells, Point Happy, numerous Guest Ranches, Date Gardens and Indio at which

point a turn-around is made for return to Palm Springs over approximately the same route. The fare for this tour is \$3.

The Palm Springs-Palm Canyon Tour will likewise be operated twice daily during the season over a route which is approximately twenty miles in length. Visits will be made to the Caliente Indian Hot Baths on the Indian Reservation over and along Palm Canyon Boulevard to Palm Canyon where a thirty-minute stop will be made to allow passengers an opportunity to visit a grove of prehistoric palms and also to visit an old Indian Trading Post. The fare for this trip is \$1.50.

The Palm Springs-Twenty-Nine Palm-National Monument Tour is to be operated on a single daily schedule covering a distance of approximately 150 miles. The most prominent points of interest to be visited on this tour are Twenty-Nine Palms, Split Rock Tank, White Horse Mine, Inspiration Point, Joshua Forest and other points of interest. The fare for this tour is \$10.

Martin proposes sightseeing tours over four routes, two in the Palm Springs district, the others in the Lake Arrowhead district.

Palm Springs Tour No. 1 is proposed to operate upon a demand of a minimum of two passengers, from Palm Springs to the upper end of Palm Canyon, a distance of 8.6 miles and return to Palm Springs. Approximately one hour will be required for this trip. The fare is \$1.50.

Palm Springs Tour No. 2 is proposed to operate upon a demand of a minimum of two passengers from Palm Springs to Coachella Valley date ranches via Indio and La Quinta, a distance of about 50 miles. The time required for this tour is approximately three hours. The fare is \$3.

Lake Arrowhead Tour No. 1 is proposed to operate around Lake Arrowhead upon a demand of a minimum of four passengers at a fare of \$2. The time required is approximately two hours.

Lake Arrowhead Tour No. 2 operates from Lake Arrowhead (The Village Commons) to Big Bear Lake and return, a distance of about 50 miles, upon a demand of a minimum of four passengers at a fare of \$5.

Applicant Tanner Motor Tours, Ltd. alleges that a great many tourists and sightseers visit Palm Springs and that the number of tourists arriving from a distance, many of whom do not bring their own automobiles, is increasing rapidly. The fame of Palm Springs has spread to the eastern portions of the United States due largely to the advertising of tourists' agencies, reports with respect to various motion picture celebrities, the use of various portions of the Coachella Valley desert region as motion picture location, numerous articles in recent magazines, the use of Palm Springs as a locale for fiction, advertising done with respect to Coachella Valley dates, work being done by the All Year Club of Southern California, advertising by Palm Springs Chamber of Commerce and similar tourist travel stimulating organizations.

Applicant Tanner further alleges that the public has become aware that there are attractions in the vicinity other than those located immediately within Palm Springs, such as the various places of interest that applicant proposes to visit on its proposed tours.

Considerable of the record is devoted to the attractions at Palm Springs as follows: Palm Springs, at an elevation of 450 feet, is situated on the westerly edge of the Coachella Valley Desert at the foot of the easterly slope of Mt. San Jacinto which has an elevation

in excess of 10,800 feet. The prevailing temperature during the summer is relatively high. During the winter season, from approximately October 1 to May 1, the climate is mild and ideal as an attraction for winter tourists. The region offers many attractions of an unusual nature. The local Indians are known as the Agua Caliente band of the Cahuilla tribe, deriving its name from the hot mineral springs of Palm Springs. They live on the land east of Indian Avenue and the main section of Palm Springs, in Palm Canyon, Andreas Canyon, and Murray Canyon, all famous for their picturesque scenery. The hot springs are located on the Indian reserve near the heart of the village of Palm Springs.

The *Washingtonia filifera* palm is native and particularly abundant in Palm Canyon which is the most famous of the local gorges located about six miles south of Palm Springs. It has been the locale of many jungle motion pictures.

There are thousands of acres of date gardens in Coachella Valley which is the only large scale date producing center in America. The Salton Sea is a vast body of salt water lying approximately 240 feet below sea level and stretching for thirty-five miles or more through the heart of the valley.

Another attraction of the desert is the smoke tree (*Dalea spinosa*) so named because at a distance it resembles a billowy cloud of smoke. It is found in abundance in the Smoke Tree Forest.

These and other scenic desert attractions nicely complement the distinctive desert setting of Palm Springs and makes it desirable for desert visitors to make a series of trips into this region.

The testimony of nine public witnesses was offered in support of Tanner's application. These witnesses comprise the owners, managers or operators of the leading hotels of Palm Springs and vicinity, the president of the Palm Springs Chamber of Commerce, a bank manager,

and local merchants., It was the opinion of each that there is a public need for the service proposed.

The testimony of Mr. Earl Coffman, Manager of Desert Inn, is typical. He has had numerous requests for a service on an individual fare basis affording an opportunity to view the numerous points of interest in the vicinity of Palm Springs in preference to the prevailing charter car facilities now offered. The proposed tours would tend to interest and prolong the stay of his guests. It has been his observation that for a time an increasing number of people arrived by private automobile. However, since the establishment of improved public transportation service, the tendency has been toward less use of private cars with the result that many of his guests upon arrival are without conveyance for local tours except upon a charter car basis. The proposal of Tanner will supply this need.

Other witnesses testified in similar vein.

Only two public witnesses testified in support of Martin's application, both of whom are managing hotels at Palm Springs. These witnesses testified that they have had numerous requests for a sight-seeing service in the vicinity of Palm Springs.

Martin testified that he had had one or two inquiries daily from persons in regard to a sightseeing service in the same territory.

No evidence whatever was adduced by Martin in support of his application to establish a sightseeing service in the Lake Arrowhead area.

At the present time, Martin owns one 1936 model Ford station wagon, the passenger carrying capacity of which was not indicated. He testified that if he were granted a certificate for the proposed service he would purchase one twelve cylinder 1931 model Cadillac sedan which would cost him \$300.

Tanner has long been engaged in the operation of touring service between various points in Southern California. It has available in this district 63 cars of the limousine type and more than 40 of the taxi cab type. Most of the equipment available for service in this district is located at Pasadena and is readily available within approximately two hours time. Its ability to provide ample and appropriate equipment for the service which it proposes was not questioned.

The record is convincing that there is a public need for a sightseeing service in the vicinity of Palm Springs. However, it does not justify the conclusion that there is sufficient business to justify two such operations on a profitable basis. Mindful of such need, there remains the question of selection of the applicant best fitted and best able to provide such service. Tanner proposes three tours while Martin proposes two which duplicate two of those proposed by Tanner, both as to routes and fares. Martin has not shown that he is financially able to properly equip himself to provide the service which he proposes. In view of these facts, we find that public convenience and necessity will be best met by granting the application of Tanner and denying that of Martin.

Tanner Motor Tours, Ltd. 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

A public hearing having been held in these matters, evidence adduced 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 Tanner Motor Tours, Ltd. of a sightseeing service as a passenger stage corporation, as that term is defined in section 24 of the Public Utilities Act, for the continuous round trip transportation of passengers whose points of origin and destination are Palm Springs, said service to be conducted over and along the following routes:

PALM SPRINGS-INDIO-LA QUINTA TOUR      Beginning at Palm Springs, thence southerly along Palm Canyon Drive and state route No. 111 to Indian Wells and Point Happy, thence detouring off state route No. 111 to La Quinta returning to state route No. 111, thence easterly to Indio, thence returning to Palm Springs over the same route with or without detour to La Quinta. Diversions may be made from this route visiting various points of interest nearby;

PALM SPRINGS-PALM CANYON TOUR      Beginning at Palm Springs, thence southerly over Palm Canyon Boulevard and county roads to Palm Canyon returning to Palm Springs over the same route with diversions to nearby points of interest including Smoke Tree and Deep Well Guest Ranches;

PALM SPRINGS-TWENTY-NINE PALMS TOUR      Beginning at Palm Springs, thence northerly over and along Indian Avenue to Garnet on U. S. Highway No. 99, thence westerly along U.S.



Highway No. 99 to Twenty-Nine Palms highway, thence north-  
erly along Twenty-Nine Palms Highway to Twenty-Nine Palms,  
thence southerly over the desert roads via Split Rock Tank,  
White Horse Mine, Keyes Ranch, Inspiration Point, Quails  
Springs and Joshua Forest, to a point where the desert road  
intersects Twenty-Nine Palms highway, thence along Twenty-  
Nine Palms highway to U.S. Highway No. 99, thence westerly  
to a junction at Palm Springs highway (state route No. 111)  
thence southerly over Palm Springs highway to Palm Springs,  
with diversions to points of interest located adjacent to or  
nearby such route;

provided that any trip on any tour may be cancelled unless a minimum of  
four tickets is sold for such trip.

IT IS ORDERED that a certificate therefor is hereby granted  
to Tanner Motor Tours, Ltd., subject to the following conditions:

1. The authority herein granted shall lapse and be void if  
the applicant shall not have complied with all of the  
conditions within the periods of time fixed herein, unless,  
for good cause shown, the time shall be extended by further  
order of the Commission.
2. Applicant shall file a written acceptance of the certifi-  
cate herein granted within a period of not to exceed  
fifteen (15) days from date hereof.
3. 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 applica-  
tion in so far as they conform to the certificate herein  
granted, or rates and rules satisfactory to the Railroad  
Commission.
4. 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.

5. 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.
6. 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 FURTHER ORDERED that that portion of Application No. 20315 reopened for further hearing, is hereby denied.

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

Dated at Los Angeles, California, this 27<sup>th</sup> day of March, 1939.

*Rafael Valenzuela*  
*Francis P. Miller*  
*Ray H. Giecy*  
*H. S. Miller*  
*Justus J. Caenen*  
COMMISSIONERS