

Decision No. 32701

MS

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ERNEST TYHURST for extension of existing certificate Decision No. 31656 of public convenience and necessity to operate a bus line service between West Sacramento, County of Yolo, and Sacramento, County of Sacramento, by changing the present operation of his bus line in West Sacramento in accordance with the map attached hereto, and changing the existing route to extend the service from Fifteenth Street - southerly on Virginia Avenue to Sixteenth Street, a distance of three blocks, then westerly on Sixteenth Street to Alabama Avenue, thence northerly on Alabama Avenue one block to Alameda Boulevard to Park Boulevard, commonly known as Jefferson Boulevard, thence along Jefferson Boulevard to the State Highway; also to extend his service for special service to the Ice Palace on the Davis State Highway in Yolo County, about 2.5 miles from Tenth and I Streets, Sacramento, California, in accordance with the map submitted herewith, by operating an automotive passenger stage service over and along the following route: Tenth Street to J Street, J Street to Third Street, Third Street to Southern Pacific Bridge, all in the City of Sacramento, over the Southern Pacific Bridge to Third Street in the Town of Washington, County of Yolo, along Third Street to the Davis State Highway to the Ice Palace, as an extension to the existing right of applicant to operate automotive passenger stage service between Sacramento, California, and West Sacramento, California, and intermediate points, and to consolidate the existing rights of applicant with the operative rights herein sought.

Application
No. 23183

ORIGINAL

BY THE COMMISSION:

O P I N I O N

By this application, as amended, Ernest Tyhurst, an individual, seeks authority to establish and operate an automotive service, as a common carrier of passengers, between:

(a) the intersection of Fifteenth Street and Virginia Avenue (West Sacramento); thence southerly along Virginia Avenue to Sixteenth Street to Alabama Avenue; thence northerly on Alabama Avenue to Alameda Boulevard to Park Boulevard (Jefferson Boulevard); thence along Park Boulevard to the State Highway (Davis Highway);

(b) the intersection of J and Third Streets; thence northerly on Third Street to H Street and Southern Pacific Bridge;

(c) the intersection of Ann Street and Second Street (Town of Washington); thence southerly on Second Street to State Highway; thence via the State Highway (Davis Highway) to its intersection with the West Acres Road (Ice Palace);

as an extension and enlargement of his existing rights and consolidated therewith.

Applicant further requests authority to abandon that part of his route over and along the West Acres Road between the State Highway and Fifteenth Street (West Sacramento) and over and along said Fifteenth Street between Jefferson Boulevard (Park Boulevard) and Virginia Avenue.

The purpose of the application is to provide a better and more convenient service for the people of West Sacramento and it is alleged that the extension proposed in "a" will provide the necessary improvement and is based primarily upon a request therefor by the West Sacramento Improvement Club, as indicated by its letter marked Exhibit "C" attached to and made a part of the application.

Proposals "b" and "c" of the application will provide a direct service to the Ice Palace, a proposed ice rink located on the State Highway about 2.5 miles from Tenth and I Streets in Sacramento. The Ice Palace is expected to be finished and in operation during the latter part of December and applicant alleges that already,

requests have been received by him for the establishment of this service, ⁽¹⁾ as set forth in Exhibit "B" of the application.

This appears to be a matter in which a public hearing is not necessary, and it further appearing to be in the public interest, the application will be granted.

Ernest Tyhurst 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 Ernest Tyhurst, of an automotive service, for the transportation of passengers, as a passenger stage corporation, as such is defined in section 2 $\frac{1}{2}$ of the Public Utilities Act, between:

(a) the intersection of Fifteenth Street and Virginia Avenue (West Sacramento); thence southerly along Virginia Avenue to Sixteenth Street to Alabama Avenue; thence northerly on Alabama Avenue to Alameda Boulevard to Park Boulevard (Jefferson Boulevard; thence along Park Boulevard to the State Highway (Davis Highway);

(1) Fares to be assessed for this service to the Ice Palace are given as ten (10) cents from any point along the proposed route from Sacramento and five (5) cents from any point along the proposed route in Yolo County.

(b) the intersection of J and Third Streets; thence northerly on Third Street to H Street and Southern Pacific Bridge;

(c) the intersection of Ann Street and Second Street (Town of Washington); thence southerly on Second Street to State Highway; thence via the State Highway (Davis Highway) to its intersection with the West Acres Road (Ice Palace);

as an extension and enlargement of applicant's existing rights and consolidated therewith.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and the same hereby is granted to Ernest Tyhurst, subject to the following conditions:

1. The authority herein granted shall lapse and be void if 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 certificate herein granted within a period of not to exceed thirty (30) days from the effective 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 (10) 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 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 (5) 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 HEREBY FURTHER ORDERED that Ernest Tyhurst be and he is hereby authorized to abandon that portion of his route over and along West Acres Road between State Highway and Fifteenth Street (West Sacramento) and over and along Fifteenth Street between Jefferson Boulevard (Parker Boulevard) and Virginia Avenue (West Sacramento).

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

Dated at San Francisco, California, this 2nd day of January, 1940.

Ray L. Rice
James D. Wilson
Paul D. Baker
H. Ball
Justus D. Cameron
COMMISSIONERS