

Decision No. 32782

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
C. J. and C. E. FORTIER, a copartner-
ship doing business under the firm
name and style of HUNTINGTON STAGE
LINES, for certificate of public
convenience and necessity to operate
a motor vehicle common carrier serv-
ice for the transportation of property
between Fresno, California and Fish
Camp, California, and intermediate
points, and for consolidation.)

ORIGINAL

Application No. 23217

BY THE COMMISSION:

O P I N I O N

This is an application by C. J. and C. E. Fortier, a co-partnership, operating under the fictitious name and style of Huntington Stage Lines, for authority to establish and operate an automotive service, as a highway common carrier, between Fresno and The Pines and intermediate points, via State Highway Routes Nos. 168 and 41 and certain unnumbered highways, as an extension and enlargement of existing rights and consolidated therewith, over and along two (2) routes hereinafter specifically described.

In support of their request for such authority, applicants allege that at the present time no comparable common carrier service exists between the points proposed to be served. It is further alleged that the highways into this area have been rebuilt and made readily passable for motor vehicles, and that many farmers inhabit this area, which is also a tourist and resort center, demanding and needing a reliable trucking service.

Applicants are experienced operators of some years standing and are familiar with and capable of maintaining a mountain type of service such as proposed. They are at the present time maintaining a similar service under a certificate between Fresno and The Pines, via Friant, O'Neals and North Fork and anticipate no difficulty in establishing the proposed new service, which they allege will readily lend itself to the consolidated operation proposed.

The rates to be assessed are those appearing in Exhibit "B" attached to and made a part of the application, and a scheduled service as reflected in Exhibit "C" is proposed.

The proposal of applicants appears to be in the public interest and it further appears that the matter is one in which a public hearing is not necessary. The application will be granted.

C. J. and C. E. Fortier are 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 C. J. and C. E. Fortier of an automotive

service, as a highway common carrier, as such is defined in section 2-3/4 of the Public Utilities Act, between Fresno and The Pines and intermediate points, over and along the following routes:

1. Between Fresno and Lane's Bridge, via State Highway Route No. 168; between Lane's Bridge and Kelshaw Corners via unnumbered highway; between Kelshaw Corners and Fish Camp, via State Highway Route No. 41;

2. Between Fresno and Lane's Bridge, via State Highway Route No. 168; between Lane's Bridge and Kelshaw Corners, via unnumbered highway; between Kelshaw Corners and Oakhurst, via State Highway Route No. 41; between Oakhurst and Fish Camp, via unnumbered highway through Ahwahnee,

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

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to C. J. and C. E. Fortier, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicants 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. Applicants 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. Applicants 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. Applicants 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 applicants herein unless such vehicle is owned by said applicants or is leased by applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.
7. Applicants shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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

Dated at San Francisco, California, this 6th day of February, 1940.

Ray L. Bailey
James P. Stevens
[Signature]
Justin P. Quenen
COMMISSIONERS