

Decision No. 23316.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ROBIN C. JOLLIFFE, an individual doing business under the style and business name of PALOMAR MOUNTAIN STAGES, for certificate of public convenience and necessity to operate a passenger, freight, express and mail automotive stage service, between Los Angeles, California, and Palomar Mountain Observatory, and between Oceanside, California, and Palomar Mountain Observatory and intermediate points between Oceanside and Palomar Mountain Observatory.

ORIGINAL

Application No. 23316.

Leonard Di Miceli, for Applicant.

Harry C. Lucas and Harry D. Richards, for Pacific Greyhound Lines, Interested Party.

M. C. Yahne, for Inland Stages, Interested Party.

Robert Brennan and William Brooks, for The Atchison, Topeka and Santa Fe Railway Company, Interested Party.

Jackson W. Kendall, for California Van and Storage Association, Interested Party.

BY THE COMMISSION:

O P I N I O N

Robin C. Jolliffe, an individual, doing business as Palomar Mountain Stages, filed the above entitled application requesting a certificate of public convenience and necessity to operate an automotive stage service for the transportation of passengers and their baggage, freight and express, between Los Angeles and Palomar Mountain Observatory in San Diego County.

A public hearing on this matter was held before Commissioner Craemer and Examiner Gorman at Oceanside on April 5,

1940, at which time the matter was duly submitted.

Applicant, at the hearing, amended his application in the following respects:

- (1) Eliminated that portion of the proposed operation between Los Angeles and Oceanside;
- (2) Eliminated the proposal to transport freight;
- (3) Restricted proposal to transport express to shipments weighing not in excess of one hundred (100) pounds and to be transported on passenger-carrying vehicles, no express to be carried between Oceanside and Bonsall and intermediate points;
- (4) Restricted proposal so as not to transport passengers locally between Vista and Bonsall and intermediate points.

Subsequent to the submission of this matter (April 11, 1940), applicant filed an amendment to the application so as to include Carlsbad on the route of the proposed operation.

As justification for the granting of this application, applicant alleged that the largest observatory in the world is now being constructed atop of Mt. Palomar; that said observatory is becoming internationally famous and is of infinite interest to scientists, students, teachers, professors, tourists, clubs and associations; that a demand exists for public transportation to and from Mt. Palomar; that approximately forty people are now domiciled at Mt. Palomar; that many people have summer cabins in and about Mt. Palomar; and that at the present time no public transportation service is being operated to or from Mt. Palomar.

Applicant proposes to operate at present an "on call" service on Saturdays, Sundays and holidays and will commute such service to a daily service upon the formal opening of the Mt. Palomar observatory, which is estimated to be approximately one year hence. The proposed fares between Oceanside and Mt. Palomar are \$3.50 one way and \$6.00 round trip. The equipment which applicant proposes to use in this service at the outset is a Chevrolet

carry-all, having a seating capacity of seven passengers.

Three public witnesses testified as to the need for public transportation service to Mt. Palomar.

Applicant indicated his willingness to enter into joint rates with The Atchison, Topeka and Santa Fe Railway Company, The Santa Fe Transportation Company, Pacific Greyhound Lines and Inland Stages. Representatives of these companies signified their willingness to cooperate with and assist applicant in every way possible to make the proposed operation a success.

After carefully considering all of the evidence in this matter, we are of the opinion that public convenience and necessity require the operation proposed by applicant and that the application should be granted.

Robin C. Jolliffe, doing business as Palomar Mountain Stages, 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 as to the number of rights which may be given.

O R D E R

The above entitled application having been filed, a public hearing having been held and the matter having been duly submitted and the Commission being fully apprised of the facts;

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by applicant of an automotive service for the transportation of passengers and their baggage and express, as a passenger stage

corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, between Oceanside and Palomar Mountain and intermediate points along the following route:

Beginning at Oceanside, thence via U.S. Highway No. 101 to Carlsbad; thence via public highway and State Highway No. 78 to Vista; thence via U.S. Highway No. 395 to Bonsall; and thence via San Luis Rey Canyon Road via Pala and Rincon to Mt. Palomar.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Robin C. Jolliffe, doing business as Palomar Mountain 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 the date hereof.
- (2) Applicant shall commence the service herein authorized within a period of not to exceed ninety (90) 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, 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 triplicate, and make effective within a period of not to exceed ninety (90) days after the effective date of this Order, on not less than five (5) days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (4) No shipment that weighs in excess of one hundred (100) pounds shall be accepted for transportation, and all shipments shall be transported on passenger vehicles.
- (5) No express shipments having both origin and destination between Oceanside and Bonsall, both points inclusive, shall be transported.
- (6) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless the written consent

of the Railroad Commission to such discontinuance, 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 21st day of May, 1940.

By & City
James D. Quinn
Ralph W. Johnson
H. H. H.
Justus F. Coe
Commissioners.