

Decision No. 32344

ORIGINAL

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 a common carrier passenger transport service between downtown Los Angeles and the Pan American Airways Company base at San Pedro, in Los Angeles, California, and from said base in San Pedro to downtown Los Angeles and the Ambassador Hotel in Los Angeles, California.

Application No. 23672.

Tudor Gairdner, for Applicant.

F. E. Billhart, for Pacific Electric Railway Company, Interested Party.

W. R. Williams, for Joe Ferrant, Interested Party.

BY THE COMMISSION:

OPINION AND ORDER

The above numbered application was filed by Tanner Motor Tours, Ltd., on August 28, 1940, requesting a certificate of public convenience and necessity to operate a common carrier passenger motor coach service between the Pan American Airways district sales office at 506 West Sixth Street in downtown Los Angeles and the base of said company at San Pedro, and between said base in San Pedro and said district sales office in downtown Los Angeles, and to the Ambassador Hotel in Los Angeles.

Public hearing in the matter was conducted by Examiner Ager at Los Angeles on October 3, 1940, at which time it was duly submitted, and it is now ready for decision.

Pan American Airways Company, operator of a clipper plane service between Pacific Coast points, on the one hand, and Honolulu and Auckland, New Zealand, on the other hand, have completed arrangements and established an airplane base at Cabrillo Beach, San Pedro,

Los Angeles Harbor. This company's schedules provide for departures of its clipper planes on alternate Saturdays and for the arrival of said planes on alternate Wednesdays. In the instant proceeding applicant proposes to furnish ground transportation service for passengers using the clipper service and for the baggage carried by these passengers. It also is applicant's intention to transport guests, employees or officials of said Pan American Airways.

Prospective patrons of outbound clipper planes are required to report at the district sales office of the Pan American Airways Company, located at 506 West Sixth Street in Los Angeles, thereby eliminating the unnecessary trip to Cabrillo Beach if, because of adverse weather conditions, a schedule has to be cancelled. It is not applicant's intention to pick up or discharge any passengers enroute. On the outbound trip passengers will be picked up at the Pan American Airways office in downtown Los Angeles and discharged at Cabrillo Beach and, on the inbound trip, passengers will be picked up at Cabrillo Beach and discharged at the office of Pan American Airways, the Biltmore Hotel or the Ambassador Hotel in Los Angeles.

It is proposed to charge a fare of \$2.00 per passenger for each one-way trip; however, an agreement has been entered into between applicant and Pan American Airways Company that, in the event three or less passengers are carried in any one vehicle on any one-way trip, said Airways Company will pay applicant the difference between the amount collected therefor and \$8.00. In other words, applicant will receive a minimum of \$8.00 per vehicle for one-way passenger-carrying trip, irrespective of the number of passengers carried.

Pacific Electric Railway Company operates a rail service between Long Beach and San Pedro and Los Angeles Motor Coach Company

operates a motor coach service between Hollywood and the Harbor, but neither of these two services could by any manner of reasoning be said to be competitive and, although these companies were represented at the hearing, no objections were offered.

Careful consideration of the record in this proceeding leads us to the conclusion that the proposed service is in the public interest and that the application should be granted.

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 as to the number of rights which may be given.

O R D E R

A public hearing having been held on the above entitled application and the Commission 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., as a passenger stage corporation as defined in Section 2½ of the Public Utilities Act, of an automotive passenger service as a common carrier, for the transportation of passengers and their baggage, between the Pan American Airways district sales office at 506 West Sixth Street in downtown Los Angeles and the base of said company at Cabrillo Beach, San Pedro, and between said base at Cabrillo Beach and said district sales office, the Biltmore Hotel and the Ambassador Hotel,

in Los Angeles, over and along the route as shown in Exhibit "B" attached to the application.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service is hereby granted to Tanner Motor Tours, Ltd., subject to the following conditions:

- (1) Applicant shall file with the Commission 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 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 exhibits 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 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, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (4) 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.
- (5) 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.

For all other purposes, the effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 15th day of October, 1940.

Ray L. Riley
Frank L. Sewell
Ray W. Babington
A. D. K.
Justus J. Casner
Commissioners.