

Decision No. 33754

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 DONALD H. JAMES, for certificate of
 public convenience and necessity to
 operate passenger service, as a common
 carrier, between the city of Santa
 Monica on along and upon Roosevelt
 Highway through Malibu Beach to Little
 Sycamore, Ventura County, California

ORIGINAL
 Application No. 23487

GAIL B. SELIG and FLOYD E. PENDELL, for
 Applicant.

H. C. LUCAS and H. D. RICHARDS, for Pacific
 Greyhound Lines, Protestant.

C. W. McINERNEY, JR., for the city of Santa
 Monica, Interested Party.

BY THE COMMISSION:

O P I N I O N

By application filed May 18, 1940, as amended, Donald H. James, an individual, seeks a certificate of public convenience and necessity authorizing operation as a common carrier by motor vehicle, of passengers and their baggage, between Santa Monica and Topanga Mineral Springs, over U. S. Highway 101-A (known as the Roosevelt Highway) to junction with State Highway 27, thence State Highway 27 (through Topanga Canyon) to Topanga Mineral Springs, serving all intermediate points and Sylvia Park Country Club as an off-route point, all of which are points within the county of Los

(1) The points which applicant proposes to serve and the distances are:

<u>Miles</u>	<u>Point</u>	<u>Miles</u>	<u>Point</u>
0.0	Santa Monica	10.0	Fernwood
2.2	Santa Monica Canyon	10.6	Topanga Post Office
2.6	Carl's	12.8	Sylvia Park Junction
3.6	Trailer Haven		
4.5	Sunset Blvd.	0.0	Sylvia Park Junction
6.0	Topanga Canyon (junction U.S. Highway 101-A and State Highway 27)	0.9	Sylvia Park Country Club
		12.8	Sylvia Park Junction
		13.7	Topanga Mineral Springs

Angeles; except, that no local service will be performed between Santa Monica and the junction of U. S. Highway 101-A and State Highway 27 and intermediate points.

Public hearings were held before Examiner Differding at Santa Monica on July 18, 1940 and at Los Angeles on September 6, October 3, and November 14, 1940, at which time evidence was received. The matter was submitted on the record and it is ready for decision.

The original application also applied for authority to handle express traffic and to operate over U. S. Highway 101-A between Santa Monica and Sycamore Fishing Village, the latter point being located in Ventura County. The Pacific Greyhound Lines opposed granting of the original application but, upon amendment thereof in the manner as previously described herein, withdrew their objections.

The proposed operation will serve an area in Topanga Canyon which extends for a distance of about seven miles from the junction of U. S. Highway 101-A and State Highway 27. The distance between the farthestmost point to be served in this area and Santa Monica is approximately thirteen and one-half miles. Numerous persons residing in Topanga Canyon are employed in Santa Monica and vicinity, particularly at one of the largest aircraft industries in the country. Santa Monica is the principal trading center for persons residing on or adjacent to applicant's proposed route. There is no public transportation available for the use of these persons traveling to or from Santa Monica.

Applicant proposes to operate ten trips daily each way between Santa Monica and Topanga Post Office and intermediate points, which include the principal points in Topanga Canyon, and a lesser

number of daily trips each way between Topanga Post Office and Topanga Mineral Springs. Testimony of record shows that many persons employed in Santa Monica and vicinity are compelled by the lack of public transportation facilities to drive their own cars to and from work, leaving their families without any means of transportation, or else endeavor to secure rides in the automobiles of their neighbors.

Eight public witnesses residing in Topanga Canyon testified as to the many disadvantages of having to rely solely on private transportation in traveling to and from Santa Monica and the need for service as proposed by applicant. Their testimony also points out that the number of permanent residents in Topanga Canyon has been consistently growing and the need for, and use of, public transportation facilities will correspondingly increase in the future. A recent survey made by applicant shows about 1160 families residing within five miles of Topanga Post Office. There is sufficient evidence of record to warrant the conclusion that the volume of present and potential traffic should enable the applicant to conduct the proposed operation in a satisfactory and profitable manner. The record is convincing that the proposed transportation of passengers and their baggage as sought herein will supply a definite public need for the service.

To render the service as proposed, applicant will operate two 12-passenger station wagons. Applicant's proposed schedule of operating expenses and revenue was introduced in evidence as an exhibit. It is estimated that the minimum number of passengers to be carried will be five persons per trip at an average fare of 25 cents each. Upon basis of these estimates, which appear to be reasonable, the exhibit shows that total operating revenues would

exceed estimated operating expenses. From the showing made, it appears applicant is financially and otherwise able to conduct the proposed operation.

We find that public convenience and necessity require the establishment and operation by applicant as a common carrier by motor vehicle, of passengers and their baggage, between Santa Monica and Topanga Mineral Springs, over U. S. Highway 101-A and State Highway 27, serving all intermediate points and Sylvia Park Country Club as an off-route point, except locally between Santa Monica and the junction of U. S. Highway 101-A and State Highway 27 and intermediate points. An appropriate order will be entered.

Donald H. James 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 granted.

ORDER

Public hearings having been had in the above-entitled proceeding, evidence received, the matter having been duly submitted, 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 Donald H. James, an individual, of an automotive service as a passenger stage corporation, as such term

is defined in section 2-1/4 of the Public Utilities Act, for the transportation of passengers and their baggage, between Santa Monica and Topanga Mineral Springs, over U. S. Highway 101-A and State Highway 27, serving all intermediate points and Sylvia Park Country Club as an off-route point; except, the transportation locally of passengers and their baggage between Santa Monica and the junction of U. S. Highway 101-A and State Highway 27, and intermediate points.

IT IS ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to Donald H. James, an individual, to perform the above described service, subject, however, to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all 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 Exhibit "A," as amended, attached to the application 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 triplicate, 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 FURTHER ORDERED that in all other respects the said application be, and it hereby is, denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of December, 1944.

Ray L. Riley

[Signature]

Justus F. Craemer
COMMISSIONERS