

ORIGINAL

Decision No. 34859

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 W. B. McLERAN, doing business as)
 CURTIS MOTOR LIVERY, for certifi-)
 cate of public convenience and) Application No. 24171
 necessity to operate as common)
 carrier between Los Angeles and)
 Swartout, California.)

ATUS P. REUTHER, for Applicant.

TUDOR GAIRDNER, for Tanner Motor Tours and
The Gray Lines, Protestants.

W. W. McELROY, for Mac's Auto Livery, Pro-
testant.

H. O. MARLER, for Pacific Electric Railroad
Company, Protestant.

JAMES GUNN, for Transportation Department,
Board of Public Utilities of the City
of Los Angeles, Interested Party.

BY THE COMMISSION:

O P I N I O N

The above-entitled application seeks authority to oper-
 ate automotive service as a passenger stage corporation for the
 transportation of persons and their baggage between Los Angeles
 and (Swartout) Big Pines. No service is proposed from or to
 (1)

(1) Swartout, popularly referred to as "Big Pines," and so desig-
 nated hereafter, is located on California State Highway No.
 138 approximately 87 miles from Los Angeles via Upland and
 Fontana and 78 miles from Los Angeles via San Fernando and
 Newhall. It is a vacation area patronized mainly by children
 under the sponsorship of social service groups, boy scouts,
 girl scouts and school organizations of the city of Los
 Angeles. The camping area at Big Pines is the property of
 the United States Government and is generally known as the
 "Los Angeles County Playground."

intermediate points.

A public hearing was held in this matter before Examiner Broz in Los Angeles on June 9, 1941, at which time evidence was received, the matter was submitted on the record, and it is now ready for decision.

The Tanner Motor Tours, The Gray Lines, Mac's Auto Livery and the Pacific Electric Railroad Company appeared as protestants and the Board of Public Utilities and Transportation of the City of Los Angeles appeared as an interested party.

Applicant is presently engaged in operating school buses in the city of Los Angeles and has been engaged in the charter limousine business in that city since 1937. He owns and operates five 21 to 30-passenger buses and one 7-passenger sedan under the fictitious name of Curtis Motor Livery. By this application he proposes to operate a scheduled passenger bus service between Los Angeles and Big Pines on Saturdays and Sundays throughout the months of June, July, August and September, leaving Los Angeles at 7:00 A.M. and arriving at Big Pines at 11:50 A.M. The return movement would leave Big Pines at 4:00 P.M. and arrive at Los Angeles at 8:10 P.M. During other months of the year, service would be rendered "on call" only. Two buses would be used in the scheduled service, one bus leaving Los Angeles on Saturday morning and the other on Sunday morning. Extra buses would be added to take care of overflow traffic and would operate on schedule as nearly as possible.

Two types of fares are proposed to be charged by the applicant, i.e. individual fares and party fares, as follows:

Individual Fares

	<u>Round Trip Re- turning the Same Day</u>	<u>Round Trip Re- turning the Second Day or Thereafter</u>
Child's Fare	\$2.50	\$3.00
Adult Fare	4.00	4.50

Party Fares

21-Passenger bus(a) . . .	\$37.50	\$47.50
30-Passenger bus(b) . . .	48.00	58.00

(a) - The rated 21-passenger bus will accommodate 30 children.

(b) - The rated 30-passenger bus will accommodate 42 children.

Baggage up to 3 cubic feet in size would be carried free, regardless of weight.

Applicant proposes to carry adults as well as children and offers to transport persons individually or in groups. He stated he would operate his buses on schedule during the four summer months whether he had passengers to carry or not. Three terminal points would be established in Los Angeles,

1. at Washington and Vermont Streets,
2. at Beverly Boulevard and La Brea,
3. at Figueroa Street and Avenue 26.

The Saturday schedule would regularly operate via the following route:

Washington to Figueroa, thence to Avenue 26, thence via Arroyo Seco Freeway to Live Oak, thence to Huntington Drive, thence to Foothill, thence to Sierra Avenue, thence to Lytle Creek Road, thence to Kendall Drive, thence to Cajon Junction, thence to Big Pines over Cajon Canyon Road, and return over the same route or over an alternative second route hereafter described.

The distance via this route is 87 miles.

The second route would be regularly operated by the Sunday schedule as follows:

On Vermont Avenue to Beverly Boulevard, thence to La Brea, thence to Sunset Boulevard, thence to Highland Avenue, thence to Cahuenga Pass, thence to Lankershim Boulevard, thence to San Fernando Road, thence to Weldon Creek, thence via Mint Canyon Road to Avenue T, thence to Pear Blossom Highway and Cajon Canyon Road to Big Pines, and returning over the same route in the reverse direction or via the alternative route described in the preceding paragraph.

The distance via this route is 78 miles.

Public witnesses appeared in support of the applicant's proposed service, including representatives of religious, patriotic and social organizations of Los Angeles who arrange for the transportation of children's vacation groups and Boy Scouts to the Big Pines area for one and two-week vacations during the period from June to September, inclusive, each year. One witness testified that he sends approximately 2,200 boys from Catholic welfare organizations to Big Pines every year and that the cost of group transportation is an important element in determining whether or not children may enjoy a vacation at Big Pines. The witness stated that in past years he made charter arrangements with Tanner Motor Tours, Pacific Electric Railroad and Mac's Auto Tours, but that their charter rates are from \$15 to \$20 more per bus than the party rates proposed by the applicant.

The director of camping activities of the Los Angeles Metropolitan Council of the Boy Scouts of America testified that approximately 3,200 Boy Scouts will camp at Big Pines this summer; that his organization is building 30 camp sites for scout troops at Big Pines and that each site will accommodate approximately 15 boys for a camping trip of one week. The witness stated that

party fares quoted by the applicant are satisfactory; that his organization has used the applicant's service in the past and found it satisfactory, ⁽²⁾ and that the proposed operation will materially aid in solving his transportation problem since he is limited in the amount of money he can spend to defray the expense of transportation service to Big Pines.

In addition, several public witnesses from girls' organizations testified at the hearing in support of the proposed service and applicant offered in evidence letters from the Department of Parks for the City of Los Angeles, Wrightwood Lodge and Big Pines Lodge. These witnesses and communications endorsed applicant's proposal as necessary for both summer and winter service, but particularly for the transportation of children during the summer months. Applicant also introduced in evidence at the hearing letters from Trailfinders, an outdoor organization for boys, and from St. Michael's Church of Los Angeles, both of which urge that the application be granted.

A financial statement as of January 1, 1941 offered in evidence by the applicant shows him to have gross assets of \$4,050 and liabilities of \$1,372. Gross income earned by applicant during the year 1940 from school bus operations in Los Angeles amounted to \$5,500 and operating expenses for that service were \$3,700, leaving a net profit of \$1,800 for the year. Applicant estimates the service here proposed will return a gross revenue

(2) It appeared from the testimony that applicant had transported charter groups from Los Angeles to Big Pines in 1937, 1938 and 1939, but not in 1940, having been advised by the Board of Public Utilities of Los Angeles that he needed a certificate from the Commission to engage in such operations.

of approximately \$300 per month during the four summer months; that operating expenses, including drivers' wages, gas, oil, depreciation, repairs and overhead expense, will amount to about 10½ cents per bus mile, \$18 per round trip, or approximately \$150 per month.

Upon cross-examination by protestants applicant testified he would not render any service from or to intermediate points between Los Angeles and Big Pines; that he would operate regular schedules whether he had any persons to carry or not; that the running time from Los Angeles to Big Pines is about three hours and fifty minutes and from Big Pines to Los Angeles about three hours and twenty minutes. When asked why he made no allowance in his cost estimate for profit, he stated that the difference of about \$150 per month between the estimated gross revenue and estimated expenses would be regarded by him as wages and profit. He stated that he now employs three drivers and would employ two extra drivers to render the proposed service if this application is granted. He also offered to purchase and replace obsolete equipment as soon as possible. In response to cross-examination by counsel for the Los Angeles Board of Public Utilities, applicant testified that the three designated terminal points in the city of Los Angeles would be "off street" terminals.

Protestants Tanner Motor Tours, The Gray Lines, the Pacific Electric Railway Company and Mac's Auto Tours offered testimony opposing the granting of the application. The superintendent of Tanner Motor Tours testified that his company operates a sight-seeing and charter bus transportation business in Los Angeles and has operated 50 buses, more or less, regularly for several years. He pointed out that while the applicant's estimated operating costs approximate 10½ cents per bus mile, a cost

of 12 to 15 cents per mile would be more nearly correct. Operating costs for his company, he said, average about 18 cents per bus mile.

The superintendent of tours of The Gray Lines confirmed the operating cost testimony of the previous witness and stated that, in his opinion, one of the applicant's larger buses could not possibly operate for less than 17 cents per mile. The Gray Lines' charter rate for bus service to Big Pines this year, according to the witness, will be \$40 per round trip, using a bus which will accommodate approximately 40 children. He admitted, however, that this quotation had not yet been made to any of the interested organizations thus far this year. The operating cost of Gray Line buses, the witness said, is about 18 cents per bus mile.

The passenger traffic manager of Pacific Electric Railway testified that his company operates about 150 motor coaches in regular scheduled bus service in and about Los Angeles and, in addition, handles a substantial amount of charter business; that charter bids have been regularly furnished to various organizations in Los Angeles in past years and that these organizations have used Pacific Electric's service without any complaints, so far as he knows, either as to service or rates. The quotation of Pacific Electric for a 30-passenger coach this year to Big Pines will be \$50, the witness said, and in conclusion he urged that the applicant should not be certificated merely because he proposes to handle passengers more cheaply than existing certificated carriers.

The owner of Mac's Auto Livery testified that he has been engaged in bus transportation business in Los Angeles since December 1922 and has operated chartered buses to vacation camps

and summer resorts for the Y.M.C.A. and for boys' and girls' organizations for many years. He stated that, if called upon, he would quote charter prices this year for a 30-passenger bus to meet the charter rates offered by the applicant herein and would also meet applicant's service proposals between Los Angeles and Big Pines.

The chief of the department of the Board of Public Utilities and Transportation of the City of Los Angeles testified that applicant filed a written application with this Board last year to classify his school buses as "charter buses" in order to transport school children to and from games, outings and other activities sponsored by and under the supervision of recognized school organizations. (3) The Board, by a decision rendered on November 8, 1940, denied the application on the ground that existing carriers testified they would meet applicant's proposed rates upon request therefor, and would render the same services as those proposed by the applicant.

(3) A public hearing was had in that application before this Board on August 16, 1940, at which time public witnesses presented testimony to meet the issue of public convenience and necessity. That application was opposed by Tanner Motor Livery, Pacific Electric Railway and Mac's Auto Tours, each of whom then held and now hold the required permits from the Board. In that proceeding the applicant likewise offered to establish lower rates than those charged by the permitted carriers.

At the conclusion of the testimony, counsel for protestants questioned the Commission's jurisdiction to certificate the proposed service on the ground that the evidence shows it would be a so-called "charter bus service" of a type over which, counsel contended, this Commission heretofore declined to exercise jurisdiction in Application of California Charter Car Corp., et al., Decision No. 26504, dated November 6, 1933, in Application No. 18973. That application, however, was dismissed, in so far as it requested certification between fixed termini and over regular routes, for lack of sufficient proof of public convenience and necessity, and, in so far as it requested certification of operations not between fixed termini or over regular routes, for lack of jurisdiction over such radial operations. Clearly the Commission did not, in that case or in any other to which our attention has been directed, decline to exercise jurisdiction over operations merely because of involving a "charter" service.

Moreover, it does not appear that the applicant here proposes a charter service. Cross-examination of the applicant developed the fact that what he seeks to establish, in addition to individual fares, are group or party fares to be made available to the general public, including groups and organizations, said fares to be published in a tariff on file with the Commission. Group or party fares are commonly published by railroads and bus lines and are maintained in tariffs on file with the Commission. We must conclude from the evidence that applicant proposes to inaugurate a common carrier passenger stage service within the meaning of Section 50-1/4 of the Public Utilities Act,

and the request of protestants for dismissal of the application, therefore, must be denied.

The next criticism of protestants appears to be directed to applicant's estimates of his operating costs. This criticism is based upon applicant's assertion that he can operate for 10-1/2 cents per bus mile, while protestants contend that his average costs will be somewhere between 12 cents and 17 cents per mile. Taking the maximum figure of 17 cents per mile for purposes of calculation, the monthly cost of service for eight round trips via the short route (78 miles) would amount to \$212.16, while the monthly cost via the longer route (87 miles) would amount to \$236.64. Deducting these costs from the estimated gross revenue of \$300 per month would leave a profit of \$87.84, or \$63.36, depending upon which route was operated. We are unable to conclude, therefore, that applicant's proposed operation would be noncompensatory, even though his estimated costs of service may be somewhat optimistic.

A review of the evidence offered in support of the question of public convenience and necessity for the proposed service leads to the conclusion that the service is desired and appears to be needed by a considerable number of people, representing social, religious and patriotic organizations engaged, among other things, in arranging for the transportation of children between Los Angeles and Big Pines. It appears from the record that the cost of such service is a matter of genuine concern to these people due to the fact that the organizations they represent have a limited budget for the expenditure of money for transportation purposes. The fact that Big Pines is about 80

miles from Los Angeles emphasizes the need for the establishment of a public service which can be rendered at a minimum cost and thus be made available to all groups and organizations. Existing charter services have charged, and some of them still charge, charter fares substantially higher than applicant's proposed party fare. Other charter operators seek to meet applicant's competitive fares. The record in this proceeding shows that applicant offers a service between specific points and designed to offer an economical service to a comparatively large group, particularly children during the summer months.

We are of the opinion and find that public convenience and necessity require the operation of a passenger stage service by W. B. McLeran between Los Angeles and Big Pines and the application will be granted.

O R D E R

A public hearing having been had in the above-entitled proceeding, the Commission being fully advised, and, based upon the finding of fact in the foregoing opinion that public convenience and necessity so require:

IT IS ORDERED that a certificate of public convenience and necessity be and it hereby is granted to W. B. McLeran, doing business as Curtis Motor Livery, to operate an automotive service as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of persons and their baggage between Los Angeles, on the one hand, and Big Pines (Swart-out) on the other hand (excluding service from or to intermediate points) subject to the conditions hereinafter set forth.

IT IS FURTHER ORDERED that the foregoing certificate of public convenience and necessity be and it hereby is made subject to the following conditions:

1. Applicant may not perform automotive service as a passenger stage corporation under the certificate herein granted, from or to intermediate points between Los Angeles, on the one hand, and Big Pines, on the other hand; nor may applicant render service as a passenger stage corporation between Los Angeles and Big Pines, on the one hand, and intermediate points between Los Angeles and Big Pines, on the other hand, via the routes named herein or via any other routes.
2. Subject to the Commission's right to change said routes at any future time, the passenger stage operations herein authorized shall be conducted over and along the following routes:
 - (a) Beginning at the intersection of Washington and Vermont Streets in Los Angeles; thence via Washington to Figueroa, thence to Avenue 26; thence to Arroyo Seco Freeway; thence to Live Oak; thence to Huntington Drive; thence to Foothill Boulevard (Highway No. 66); thence to Sierra Boulevard; thence to Lytle Creek Road; thence to Kendall Drive; thence to Cajon Junction; thence to Big Pines over Cajon Canyon Road, and return over the same route in the reverse direction, or over alternate route (b) next described.
 - (b) Beginning at the intersection of Washington and Vermont Streets in Los Angeles; thence via Vermont to Beverly Boulevard; thence to La Brea; thence to Sunset Boulevard; thence to Highland Avenue; thence to Cahuenga Pass; thence to Lankershim Boulevard; thence to San Fernando Road; thence to Weldon Creek; thence via Mint Canyon Road to Avenue T; thence to Pear Blossom Highway; thence to Cajon Canyon Road and Big Pines, returning over the same route in the reverse direction, or over alternate route (a) described above.

3. Applicant shall perform regular scheduled service on Saturdays and Sundays throughout the months of June, July, August and September of each year, and shall maintain "on call" service during the other months of the year.

IT IS FURTHER ORDERED that in the operation of said passenger stage service authorized by the certificate herein granted, W. B. McLeran, doing business as Curtis Motor Livery, shall comply with and observe the following service regulations:

1. File a written acceptance of the certificate herein granted and commence the service herein authorized within thirty (30) days from the effective date of this order.
2. File in triplicate with the Commission upon not less than one (1) day's notice to the Commission and to the public, tariffs and time schedules containing the passenger fares and services to be rendered as set forth in the application (as amended at the hearing herein).
3. Comply with the provisions of Part II of General Order No. 93-A of the Railroad Commission within thirty (30) days from the effective date of this order, and thereafter comply with all provisions of said General Order No. 93-A.
4. Applicant shall not sell, lease, transfer nor assign the certificate of public convenience and necessity herein granted unless such sale, lease, transfer or assignment shall be formally approved by the Railroad Commission.

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

Dated at San Francisco, California, this 1st day of July, 1941.

[Signature]
[Signature]
Justus J. Casner
Frank L. Haven
[Signature]
 COMMISSIONERS