

Decision No. 36714

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MAX )	
H. GREEN, doing business as MOUNTAIN )	
AUTO LINES, for a certificate of public )	Application No. 24974
convenience and necessity to operate )	2nd Supplemental
motor coach line between San Bernardino )	
and U. S. Army Quartermaster Depot, )	

BY THE COMMISSION:

O P I N I O N

Max H. Green, doing business as Mountain Auto Lines, has heretofore been authorized to operate a motor coach line from Pacific Electric Station between Second and Third Streets, in San Bernardino, over and along the following route:

From Pacific Electric Station between Second and Third Streets, San Bernardino, to Second Street, left on Second Street to E Street, thence on E Street to Kendall Drive, thence on Kendall Drive to junction of U. S. Highway No. 66 at underpass of Santa Fe Railway; also,

From Pacific Electric Station between Second and Third Streets, San Bernardino, to Second Street, left on Second Street to E Street, thence on E Street to Highland Avenue, left on Highland Avenue to Cajon Boulevard, right on Cajon Boulevard and U. S. Highway No. 66 to junction of Kendall Drive at underpass of Santa Fe Railway.(1)

Applicant now desires authority to serve the Eleventh Replacement Depot, United States Army, located approximately 2.15 miles easterly of Cajon Boulevard and northerly of First Avenue by a diversion from its route on Cajon Boulevard.

(1) Decision No. 36360, dated May 18, 1943, on 1st Amended Application No. 24974.

Attached to the application is a copy of a letter from the Commanding Officer of the Eleventh Replacement Depot requesting applicant to furnish transportation between said Depot and San Bernardino.

A proposed time schedule to conform with the requirements of the Replacement Depot personnel is filed with the application. One-way fares between the Replacement Depot and the San Bernardino terminus are fixed at twenty cents. No local service within the city limits of San Bernardino is proposed. The area under consideration is not served by any other certificated carrier.

After full consideration of the application the Commission is of the opinion that the proposed service is necessary and the application will therefore be granted. The matter does not require a public hearing.

Max H. Green, doing business as Mountain Auto Lines, is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

#### ORDER

Application having been made as above entitled; and the Commission now finding 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 Max H. Green authorizing him to operate as a passenger stage corporation, as that term is defined in Section 24, Public Utilities Act, between the intersection of Cajon Boulevard and Ogden Street and the Eleventh Replacement Depot approximately 2.15 miles westerly as an extension and enlargement of the operative right presently conducted by applicant as authorized in Decision No. 36360, dated May 18, 1943, subject to the following restriction and condition:

- (1) No local service shall be performed within the city of San Bernardino.
- (2) The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Max H. Green, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.

IT IS FURTHER ORDERED that in the operation of said passenger stage service Max H. Green shall comply with and observe the following service regulations:

1. 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.
2. Applicant shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.
3. Subject to the authority of this Commission to change or modify it at any time by further order, applicant shall conduct said passenger stage operation over and along the following route:

From the junction of Cajon Boulevard and Ogden Street, on Ogden Street to June Street, on June Street to 1st Avenue, on 1st Avenue to Vermont Street, on Vermont Street to Ogden Street, and on Ogden Street to June Street.

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

Dated at San Francisco, California, this 23<sup>rd</sup>  
day of November, 1943.

Francis J. Haven  
H. L. Baker  
Justus F. Cramer  
Richard L. ...  
...  
COMMISSIONERS