

Decision No. 36920

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LEE )  
SPEIRS, doing business as LAS VEGAS-NEEDLES-) )  
PHOENIX STAGE LINE, for a certificate of )  
public convenience and necessity to operate )  
motor vehicles for the transportation of )  
passengers, express and baggage, between the )  
Nevada-California State line, and Blythe, )  
California, and all points intermediate )  
thereto on U. S. Highway 95. )

ORIGINAL

Application  
No. 25855

BY THE COMMISSION:

O P I N I O N

In this proceeding Lee Speirs requests a certificate of public convenience and necessity to establish and operate an automotive stage line for the transportation of passengers, baggage and express between the Nevada-California State line, approximately 30 miles northerly from Needles, on the one hand, and Blythe, California, on the other hand, and all points intermediate thereto. The application, however, was subsequently modified to provide for "on call" service between Vidal Junction and Blythe.

Applicant presently conducts an interstate operation between Las Vegas, Nevada, and Phoenix, Arizona, on U. S. Highway No. 95, via Rice-Vidal Junction.

As justification for the granting of the certificate herein requested, applicant alleges that there are a number of military establishments in the vicinity of Blythe at which are stationed large numbers of military personnel who are without common carrier service except such as is provided by The Atchison Topeka and Santa Fe Railway Company and Railway Express Agency, which serve Blythe, Vidal and Needles. Applicant states there is a constant movement of military and civilian personnel between Blythe

and Needles and certain of the intermediate points.

The Commission has heretofore granted applicant a certificate authorizing operation as a common carrier over substantially the identical route herein proposed to be served<sup>(1)</sup>. As a result of an investigation by the Commission it developed that the operative right so granted had not been exercised by applicant for over two years, and that it had been abandoned without the authority of the Commission. The operative right was declared null and void<sup>(2)</sup> and all tariffs and time schedules filed thereunder were cancelled.

In the application before us it is contended that the service was discontinued because of the poor condition of the road and failure of the public to use the service. Further than that, applicant professed to be ignorant of the fact that it was incumbent on him to obtain the consent of the Commission to abandon the service, notwithstanding that the order contained a definite direction so to do.

In view of this violation of the law and the Commission's instructions, we would hesitate in this case to grant another certificate by ex parte order were it not that military necessity seems to require the proposed service. It appears that applicant is qualified to render this service, and has the equipment necessary to do so. According to his application the route over which he proposes to operate is now a paved highway.

The proposed charges for the transportation of passengers and express and the schedules of service are set forth in Exhibit "B," and amended Exhibit "C." One daily round-trip is proposed

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(1) Decision No. 28486, dated January 6, 1936.

(2) Decision No. 32544, dated November 8, 1939.

subject to the provision that service between Vidal Junction, Vidal and Blythe would be rendered only "on call" from the Commanding Officer of the camp to and from which service would be provided, and for a minimum of fifteen passengers.

The Atchison Topeka and Santa Fe Railway Company and Railway Express Agency, both serving the territory, have advised the Commission that they do not desire to oppose the granting of the application. A public hearing is not necessary.

Lee Speirs 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.

#### O R D E R

Application having been filed in the above entitled matter, the Commission being duly advised, and finding that public convenience and necessity so require,

IT IS ORDERED that a certificate of public convenience and necessity is granted to Lee Speirs authorizing operation as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ , Public Utilities Act, for the transportation of passengers, baggage and shipments of express weighing not to exceed one hundred pounds (100) each, on passenger-carrying vehicles, between a point on the Nevada-California State line, approximately thirty miles northerly from Needles, on the one hand, and Blythe, California, on the other hand,

and all points intermediate thereto, subject to the following conditions:

- (1) Applicant shall render only an on call service between Vidal Junction and Elythe for a minimum of fifteen (15) passengers, and only upon request of the Commanding Officer of the camp to and from which such personnel is transported.
- (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 Lee Speirs, 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 Lee Speirs 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) days' 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 most appropriate route or routes between the points herein authorized to be served.

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

Dated at San Francisco, California, this  
7<sup>th</sup> day of March, 1944.

Richard Jackson

Justus F. Casper

Francis D. Havenner

Emma C. ...

Grant ...

COMMISSIONERS