

AMOS FRIEDMAN, for Applicant in Application No. 26035; interested party in other three applications.

GEORGE H. RAWLINS, Captain, Army Air Corps and Base Legal Officer, for Army Air Base, Muroc, prononent.

JONATHAN C. GIBSON and WM. F. BROOKS, by WM. F. BROOKS, for The Atchison, Topeka and Santa Fe Railway Company and Santa Fe Transportation Company, interested party in all four applications.

W. A. SHERWIN, for Inland States, and for Antelope Valley Transit Company, protestants in all four applications.

JAMES GUNN, for Board of Public Utilities and Transportation of City of Los Angeles, interested party in all four applications.

WALLACE P. ROUSE, for Jenkins Motor Company, interested party in all four applications.

CLARK, Commissioner:

O P I N I O N

The above numbered applications were filed for the purpose of providing passenger service between Muroc Army Air Base, located some distance east of the City of Mojave, and the City of Los Angeles.

Public hearing was held on March 16 and 17, 1944, at Los Angeles. The matters were not consolidated for hearing but, because of their related status, they will, for convenience, be consolidated for decision.

At the hearing the need for transportation between the Army Air Base at Muroc and the City of Los Angeles and Hollywood was clearly established by the testimony of army officers. While it is not deemed advisable to disclose even the approximate number of men now stationed at the air base, army representatives indicated that the air field could be expected to require transportation facilities for a substantial number of personnel.

Camp personnel is divided into three groups - (1) flying personnel; (2) static military personnel; and (3) civilians employed at the base.

The flying personnel forms but a small portion of the population at the base and the schedule of this group is so arranged that after eight days of intensive training a two-day furlough is authorized. Because of the nature of the training, the time at which the various crews are released varies substantially from day to day. A passenger service of the station wagon type, sufficiently flexible to operate in small units, is required to meet the needs for this class of personnel. The volume of such travel has been estimated to be somewhere between 200 or 300 per week, with peak requirements set at between 90 and 100 per peak day.

The static military and civilians constitute the greater portion of the personnel located at the base. Present policies in effect would permit 1000 to 1500 absentees daily from these latter groups. The transportation officials at the base estimated that between 500 and 600 men daily probably would avail themselves of pass privileges and would require a scheduled bus service. With present practices in effect, services timed to leave Muroc at 12:30 P.M. and 5:30 P.M. probably would best suit existing needs.

In the past, transportation has been offered to Muroc by means of busses chartered from Tanner Motor Tours under a contract arrangement, in which fully seated loads were provided for at the time of leaving Muroc. This service was discontinued shortly after its inception because of difficulties encountered in assuring the proper arrangements to fulfill contractual obligations.

By Decision No. 35970, dated November 18, 1942, James R. Proper, doing business as Los Angeles-Trona Stages, was granted an amended route between Los Angeles and Trona along U. S. Highway #466 between Mojave and Beecher's Corners and intermediate points. One

of these intermediate points was Muroc Junction, a point on United States Highway No. 466 approximately 16 miles east of Mojave and six miles north of the Muroc Army Air-Field.

James R. Proper, assuming that his certificate authorized him to serve the Air Base, in August of 1943 diverted his route from U.S. Highway No. 466 at the so-called Muroc Junction and traversed a road for six miles in a southerly direction to reach the camp through the north gate, returning northerly along the six-mile route to U. S. Highway No. 466, where his operations continued along the certificated route. In this manner the personnel of the Muroc Army Air Base, together with residents of a Federal Housing Project and United States Army Air Force Experimental Station, were offered transportation to and from Los Angeles. This service was continued until March 6, 1944, at which time Proper discontinued operation off United States Highway No. 466 to the Air Base.

During October, 1943, station wagon service was inaugurated between Muroc and the Hollywood district of Los Angeles by Harry Stellar and Ray Hunter, doing business as Muroc-Los Angeles Charter Service. This latter operation was intended for, and was used by, the flying personnel and, with a minimum of advance notice, permitted the chartering of an eight-passenger station wagon to serve flying crews at the time they were released from training. In this operation arrangements were made whereby each vehicle was chartered in behalf of one group for the round trip from Muroc to Hollywood, and return. Testimony introduced at the hearing indicated that the fixed fee of \$40 per vehicle was at times modified so as to permit the transportation of less than eight passengers for the fixed fee of \$5 per person. On February 21, 1944, these operations were discontinued until such time as a determination should be made of proper certification.

At present Antelope Valley Transit Company performs a local passenger service between Muroc Army Air Base and Lancaster, in which service of a local character is rendered to intermediate points. At Lancaster connections are made with the route of Inland Stages operated between Los Angeles and Reno, Nevada, via Mojave. Testimony developed at the hearing indicated that the service of Antelope Valley Transit Company, while adequate to care for the local needs, was insufficient to bear the Los Angeles-Muroc traffic requirements between Lancaster and the base.

Third Supplemental Application No. 25294 was filed on March 9, 1944, by James R. Proper, doing business as Los Angeles-Trona Stages. As amended on March 16, 1944, the applicant seeks permission to extend his passenger stage line, operated pursuant to Decision No. 35970, to include a certificated operation extending from a point formerly referred to as Muroc Junction, southerly to the north gate of the Muroc Army Air Base. By this route service to Los Angeles would be provided to the U.S. Army Air Force Experimental Station and the Federal Housing Project located along this proposed route.

Request is likewise made that a new route be added to the certificate held by James R. Proper to extend southerly from the Air Base to its intersection with a county road in the vicinity of Little Rock, thence westerly along said county road to a junction with State Highway No. 6 at a point approximately four miles south of Palmdale. This latter route would be used to provide the bulk of common carrier passenger service between Los Angeles and Muroc Air Base and service would be afforded without additional equipment.

Application No. 25984 was filed on January 19, 1944, by Tanner Motor Tours, Ltd. By this application, as amended, permission is sought to perform a specialized bus service to transport army personnel between various camps in Southern California and Los Angeles

and Santa Monica. This service is intended to provide "on call" transportation at such times as full bus loads may be arranged for in advance and rates for this transportation have been predicated upon a high load factor. Such service would be available only at those times when large groups requested transportation in advance. Testimony on the Tanner application was confined entirely to that portion dealing with transportation to and from Muroc Air Base. Such testimony indicated a need for service to and from the Hollywood area which previously had not been covered in the route submitted in the original application. By oral testimony, applicant agreed to revise his routing to include the Hollywood area and concurrently modified the rates, included on Exhibit "A-1" attached to the application, opposite "Muroc Air Base" under "Column 3" to \$2.50; and under "Column 4" to \$4. This revision is based upon the longer mileage incurred by rerouting through Hollywood.

Application No. 26025 was filed on February 24, 1944, by Vernon Harlow and Clarence Harlow, a copartnership, doing business as Mission Limousine Service. By this application request is made for a certificate of public convenience and necessity to perform special "on call" service, to be rendered by station wagons from the Muroc Air Base and contiguous territory to Los Angeles and Hollywood, and to Bakersfield. This service is intended to meet the requirements of the flying personnel and rates would be established between Muroc and Los Angeles, Muroc and Bakersfield, south of Lancaster to Los Angeles, and north of Lancaster to Bakersfield. By amendment, the \$3.50 one-way rate contained in the application, between Muroc and Los Angeles, was changed to \$2.50. Service, as proposed by this carrier, would be designed for an "on call" operation.

Application No. 26035 was filed on March 2, 1944, by Harry Stellar and Ray Hunter, doing business as Muroc-Los Angeles Charter

(1)
Service. By this application, as amended, permission is sought to perform a so-called charter service by station wagons between Muroc Air Base and Hollywood and between the said base and the City of Bakersfield. Rates set forth in the application are proposed to apply to a chartering of the vehicle for a fixed sum for round trip transportation between the base and Hollywood, or between the base and Bakersfield. This service is to be designed to care primarily for the flying personnel at such times as the need for the service develops.

We have given due consideration to the four applications involved herein and find that service performed prior to February, 1944 appeared to fulfill the Muroc Army Air Field requirements. The scheduled type of bus operation was furnished by James R. Proper, under the belief that his certificate included the Army Air Field, and the specialized flexible "on call" service was rendered by Harry Stellar and Ray Hunter, on the assumption that no certificate of public convenience and necessity from the Commission was required.

We further find:

(a) That the evidence in this record shows that public convenience and necessity require the establishment and operation by James R. Proper of a passenger stage service between Los Angeles and Muroc Army Air Field, in connection with and as a part of his present passenger stage operation between Los Angeles and Trona. The present certificate held by this operator covers a route within six miles of the Muroc Army Air Field and during the present emergency it is deemed highly advisable to minimize the expenditure of manpower and

(1) By amendment to the application filed March 9, 1944, Ray Hunter withdraws from the partnership and Harry Stellar becomes sole owner and applicant.

equipment whenever feasible. Under these circumstances, Los Angeles-Trona Stages appear to be in the best position to provide bus service. A certificate will be granted between Muroc Junction and a point about four miles south of Palmdale on applicant's present route, authorizing service over an additional route via the Air Field. This will restore service to developments north of the Air Field and provide a through service over a shorter route between the base and Los Angeles. That portion of the new route south of Muroc Army Air Field should be restricted against service to or between intermediate points thereon.

(b) That the evidence in this record does not show that public convenience and necessity require the establishment and operation of the service proposed by Tanner Motor Tours, Ltd. in Application No. 25984 between Los Angeles and Muroc Army Air Field. This application will be denied to this extent.

(c) That Vernon Harlow and Clarence Harlow, a co-partnership doing business as Mission Limousine Service, are already authorized to perform passenger stage service in the vicinity of Riverside and San Bernardino pursuant to Decisions Nos. 34804 and 35038, dated December 2, 1941, and February 17, 1942, respectively.

Current service is rendered mainly during night hours and at present does not require the use of all equipment. At this time, however, it appears that increased demands can be reasonably anticipated by all carriers. Applicant stated that should such condition face him, it could be met by operating his fleet to and from Muroc in the daytime and then transferring the equipment to the Riverside-San Bernardino

district for operation at night. Obviously, should such dead-head mileage become necessary, an extremely overall inefficiency would result. During the present emergency such a condition is highly undesirable, particularly when another carrier is willing and able to provide the service without the necessity of utilizing a substantial amount of dead mileage.

The evidence in this record will not support a finding that public convenience and necessity require the establishment and operation of the passenger stage service proposed by Vernon and Clarence Harlow in Application No. 26025 and such application will be denied.

(d) That the evidence in this record shows that public convenience and necessity require the establishment and operation of a passenger stage service by Harry Stellar, an individual, between Los Angeles and Muroc Army Air Field, only, and a certificate therefor will be granted as hereinafter provided for. He will be required to file a tariff based upon an individual fare basis. This record does not show that public convenience and necessity require the establishment of the proposed service by said Harry Stellar between Bakersfield and Muroc Army Air Field and this portion of the application will be denied. This applicant has had experience in supplying transportation for flying personnel and there was no criticism of his service by the military authorities.

James R. Proper and Harry Stellar are 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 as to the number of rights which may be given.

The following form of Order is recommended.

O R D E R

A public hearing having been had herein and the Commission now being fully advised, and it having been found that public convenience and necessity so require,

IT IS ORDERED as follows:

I.

(1) That a certificate of public convenience and necessity is hereby granted to James R. Proper authorizing the establishment and operation of service, as a passenger stage corporation, as defined in Section 2½ of the Public Utilities Act, for the transportation of passengers and baggage between Muroc Junction and the intersection of United States Highway No. 6 and a county road approximately four miles southerly of Palmdale, and intermediate points, via Muroc Army Air Field, as an extension and enlargement of the operative rights heretofore created by Decision No. 35970, rendered November 18, 1942, in Application No. 25294, subject to the following condition:

The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that James R. Proper, 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.

(2) That, in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) 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.
- (b) 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.
- (c) Subject to the authority of this Commission to change or modify it by further order, applicant shall conduct operations, pursuant to the certificate herein granted, over and along the following route:

Over county highways between an intersection with United States Highway No. 6 approximately four miles south of Palmdale, and an intersection with United States Highway No. 466 at Muroc Junction, via the Little Rock district and Muroc Army Air Base.

- (d) Applicant shall not transport passengers to or from or between intermediate points south of Army Air Base and the intersection of the county road with U.S. Highway No. 6 approximately four miles south of Palmdale.

II.

(1) That a certificate of public convenience and necessity is hereby granted to Harry Stellar authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of passengers and baggage between Los Angeles and Muroc Army Air Field, subject to the following condition:

The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Harry Stellar, 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.

(2) That, in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) 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.
- (b) 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.
- (c) Subject to the authority of this Commission to change or modify it by further order, applicant shall conduct operations, pursuant to the certificate herein granted, over and along the following route:

Commencing with a place within the Muroc Air Base, thence over what is known as Muroc Lancaster Highway, for a distance of approximately 14 miles; thence from Lancaster Road by Little Rock Road to United States Highway No. 6, for a distance of approximately 20 miles; thence via United States Highway No. 6 and United States Highway No. 99 for a distance of approximately 40 miles; thence to California Highway No. 7 to the intersection of Ventura Boulevard and Cahuenga Boulevard, Los Angeles, California, thence Southerly along Cahuenga Boulevard, Los Angeles, California, to a parking lot adjacent northerly to the U.S.O. Building, located at 1531 North Cahuenga Boulevard, Los Angeles, California.

III.

(1) That Application No. 26035, Harry Stellar, except as herein granted, is denied in all other respects.

(2) That Application No. 26025, Vernon and Clarence Harlow, is hereby denied.

(3) That Application No. 25984, Tanner Motor Tours, Ltd., is denied in so far as a certificate is requested between Los Angeles and Muroc Army Air Field.

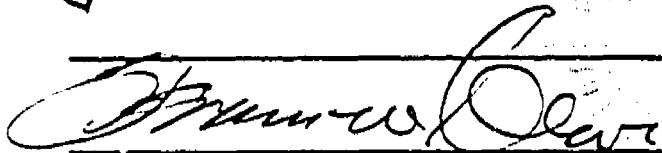
The effective date of this Order shall be the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at Los Angeles, California, this 13th day of April, 1944.







Commissioners.