

ORIGINAL

Decision No. 38411

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 LLOYD F. HARVEY, for a certificate)
 of public convenience and necessity)
 authorizing the extension of present)
 service authorized by Decision No.) Application No. 27055
 36711 and as amended by Decision No.)
 36777, to and from Stovepipe Wells)
 and intermediate points, over and)
 along California Highway 190.)

O P I N I O N

By his application in this proceeding Lloyd F. Harvey seeks a certificate of public convenience and necessity authorizing the establishment of service, both as a highway common carrier and as a passenger stage corporation, pursuant to Sections 50-3/4 and 50 1/2, Public Utilities Act, between Death Valley Junction and Stovepipe Wells, as an extension of his existing operations.

Under a certificate previously issued by the Commission, applicant is authorized to operate as a highway common carrier, serving the public both directly and as an underlying carrier for Railway Express Agency, Incorporated, (an express corporation) (a) for the transportation of general commodities between Yermo and Death Valley Junction and intermediate points; and (b) for the transportation of milk and empty milk carriers returning, between Barstow and Death Valley Junction and intermediate points; and he also is authorized to operate as a passenger stage corporation (1) (c) between Yermo and Death Valley Junction and intermediate points.

(1) Decision No. 36711, dated November 16, 1943, and Decision No. 36777, dated December 21, 1943, in Applications Nos. 25547 and 25607, and Case No. 4678.

Under this certificate the off-route point of Tecopa may be served. Shipments, other than those transported for Railway Express Agency, Incorporated, are subject to a weight limitation of 250 pounds each.

To provide the service an additional 20-passenger bus, with a combined express and freight compartment would be used. The current time schedule would be extended to Stovepipe Wells, distant some 56 miles northwest of Death Valley Junction. Rates and fares applicable to points within the extended area, as shown in the application, would be published. The existing weight restriction, mentioned above, would be observed.

During the war the Death Valley resorts situated at Furnace Creek Inn, Furnace Creek Ranch and Stovepipe Wells, it is alleged, have been closed to the public. The resort at Stovepipe Wells, it appears, will be reopened on November 16th. On November 1st, applicant extended the mail service to Stovepipe Wells, as provided by his contract with the postal authorities. No other common carrier, it appears, now serves this territory. Clearly, a need exists for the extension of a common carrier freight, express and passenger transportation service to this territory. The application, accordingly, will be granted. This is not a matter requiring a public hearing:

Lloyd F. Harvey is hereby 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 made as above entitled, the Commission having considered the matter, and it having been found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Lloyd F. Harvey, an individual, (a) authorizing the establishment and operation of a service as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, serving the public both directly and as an underlying carrier for Railway Express Agency, Incorporated, an express corporation, for the transportation of general commodities between Death Valley Junction and Stovepipe Wells and intermediate points; and (b) authorizing the establishment and operation of a service of a passenger stage corporation, as defined by Section 2 $\frac{1}{4}$, Public Utilities Act, for the transportation of passengers and baggage between Death Valley Junction and Stovepipe Wells and intermediate points. This certificate is issued as an extension of the operative rights granted to applicant by Decision No. 36711, rendered November 16, 1943, and Decision No. 36777, rendered December 21, 1943, in Application No. 25607.

Said certificate is granted subject to the following limitation:

No shipment other than traffic handled by applicant as an underlying carrier for Railway Express Agency, Incorporated, may be transported between any of the points described, weighing in excess of 250 pounds.

The operation of the service herein authorized shall commence on or before February 1, 1946.

(2) That in providing service pursuant to the certificate herein granted, applicant 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 Orders Nos. 79 and 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules 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 the 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:

Via California State Highway 190 from
Death Valley Junction to Stovepipe Wells.

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

Dated at San Francisco, California, this 20th
day of November, 1945.

David Anderson
Justin F. O'Connell
Francis D. O'Connell
Joseph J. O'Connell
Harold P. Kula
COMMISSIONERS