

Decision No. 38502

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
MERLE L. TOBIAS, doing business as )  
SNOW SHU WINTER TRANSPORTATION )  
COMPANY, for a certificate of public )  
convenience and necessity to operate )  
passenger and express service be- )  
tween Soda Springs and miscellaneous )  
points of winter snow sports activities.)

ORIGINAL

Application No. 27107

O P I N I O N

Merle L. Tobias, doing business as Snow Shu Winter Transportation Company, requests a certificate authorizing the establishment and operation of an automotive service for the transportation of passengers and baggage between Soda Springs, Sugar Bowl, Ice Lake, The Cedars and The Palisades, and intermediate points. The proposed service would be limited to the snow season from approximately December 15 of each year to about April 1 of the following year.

Applicant proposes to use motor driven snow tractors on skis with attached sleds.  
(1)

(1) The equipment is described in the application as follows:

The equipment to be used, which is more specifically described in "Exhibit D", attached hereto, consists of four motor driven snow tractors on skis on continuous chain with cleats attached which revolve around rear skis and which are steered by movable front skis. The tractor is driven by a seventy-eight horsepower (SAE rating) motor and the whole design of the tractor and sled is patterned around a low center of gravity. The tractor will accommodate five passengers exclusive of the driver in an enclosed cab which is heated independent of the engine. The sleds to be attached to the tractors will accommodate twenty-six passengers. These are likewise enclosed and have independent heating devices. The sleds are of a bobsled type, with oak runners supporting thirty inch steel truss sides to the sled body. All equipment is designed with keels to prevent their sliding laterally while in motion.

(continued on next page)

In order to use such equipment applicant requests that he be allowed to deviate from the provisions of the Commission's Safety Rule 2.09 of General Order No. 93-A. (2)

Applicant proposes to meet all incoming and outgoing passenger stages and trains operating to, from or through Soda Springs to transport passengers between the points it proposes to serve. It is contemplated that five daily round trips would be made between Soda Springs and Ice Lake and about 15 daily round trips between Soda Springs and Sugar Bowl. Trips to The Palisades and The Cedars would be made "on-call" with the tractor for a minimum of five

---

(1) continued.

The motors are to be equipped with governors limiting the forward speed to a maximum of approximately eighteen miles per hour.

In the proposed units for this operation the character of the terrain, the tractor device which packs the snow automatically as it passes over the route and the weight of the sled are such that the failure of the motor power, or even the failure of the coupling between the sled and the tractor, would leave the sled inert and incapable of moving. In view of the fact that the contemplated routes do not encounter any grades in excess of twelve per cent, it seems impossible that any hazard exists such as is contemplated by Section 2.09 of the Commission's safety regulations.

(2) The safety rule reads as follows:

"2.09 - TRAILERS. No passenger stage in service shall be operated or driven with any trailer or any other vehicle attached.

round-trip fares and with tractor and sled for a minimum of 26 (3)  
 round-trip fares. The proposed fares are set forth in the margin.

In support of the authority sought, the application states that approximately 8,000 persons go to Soda Springs weekly during the snow season to participate in winter snow sports. Applicant anticipates that about three-fourths of this number would use the facilities to Sugar Bowl and Ice Lake. It is asserted that there are no means of transportation between the points proposed to be served. It is further stated that more than 3,000 persons on Saturdays and Sundays make the trip from Soda Springs to Sugar Bowl and Ice Lake on snow shoes or skis which requires approximately one and one-half hours to Sugar Bowl and one hour to Ice Lake. Of this number a large proportion are inexperienced in the use of snow shoes or skis, so it is asserted, and many suffer injuries. The equipment proposed to be used can make two round trips hourly between Soda Springs, Sugar Bowl and Ice Lake. The application further states that the owners of the resorts and winter sport locations plan to expand their facilities but are without needed public transportation.

(3)	<u>PROPOSED INDIVIDUAL FARES</u>	
	Between Soda Springs and Sugar Bowl . . . . .	\$ .75
	(Distance 3 miles)	
	Between Soda Springs and Ice Lake . . . . .	.50
	(Distance 2 miles)	
	<u>ON CALL SERVICE</u>	
	<u>For Tractor Only:</u>	
	Between Soda Springs and The Palisades and return. . . . .	4.50
	(Minimum 5 fares)	
	Between Soda Springs and The Cedars and return . . . . .	6.00
	(Minimum 5 fares)	
	<u>For Tractor and Sled:</u>	
	(Minimum 26 fares)	
	From Soda Springs to The Palisades and return . . . . .	4.50
	From Soda Springs to The Cedars and return . . . . .	6.00
	<u>Baggage Allowance:</u>	
	Thirty-five pounds and one pair skis per passenger.	
	<u>Excess Baggage:</u>	
	Charge 2-cents per pound.	

After full consideration of applicant's request it appears that there is a public need for the proposed operation, and the application will be granted. No public hearing is necessary. It further appears that the equipment applicant plans to use in his proposed operations should not at the outset of this operation travel at a speed in excess of 18 miles an hour while transporting passengers. Applicant will be required to notify the Commission three days in advance of the date the service will be inaugurated.

Merle L. Tobias 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

An application therefor having been filed and it being found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity is hereby granted to Merle L. Tobias 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 Soda Springs, Sugar Bowl, Ice Lake, The Cedars, The Palisades, and intermediate points, during the snow season from approximately December 15 of each year to approximately April 1 of the following year.

(2) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

- (a) Service between Soda Springs and Sugar Bowl, and between Soda Springs and Ice Lake shall be a scheduled service.
- (b) Service between Soda Springs and The Palisades and The Cedars may be provided by tractor on-call for a minimum of five round-trip fares and by tractor and sled on-call for a minimum of 26 round-trip fares.
- (c) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- (d) Applicant shall, within 60 days from the effective date hereof, and on not less than 1 day's notice to the Commission and the public, establish the service herein authorized and 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, appropriate tariffs and time tables satisfactory to the Commission.
- (e) Subject to the authority of the Commission to change or modify them by further order, applicant shall conduct operations, pursuant to the certificate herein granted, over and along the most appropriate route or routes between the points herein authorized to be served.

(3) That applicant may deviate from the provisions of Rule 2.09 of General Order No. 93-A and use in his operations equipment of the type described in the application and discussed in the foregoing opinion, subject to the following conditions:

- (a) Such equipment may not be operated at a speed in excess of 18 miles an hour when transporting passengers.

- (b) The sled shall be attached to the towing vehicle in a substantial manner.
- (c) The sled shall be provided with an emergency exit at the opposite end from the entrance door, on the left side.
- (d) The Commission shall be notified in writing three days in advance of the date that such equipment is to be placed in service.
- (e) All other provisions of General Order No. 93-A shall remain in full force and effect.

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

Dated at San Francisco, California, this 10<sup>th</sup>  
day of December, 1945.

Harold Rudman

Frank W. Clark

Ernest Howell

Harold A. Hula

COMMISSIONERS