

Decision No. 38788

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of W. B. McLERAN, doing business)
as McLERAN TRANSIT CO., for a)
certificate of public convenience)
and necessity to operate as common)
carrier between Santa Monica and)
Santa Anita Race Track, near Arcadia,)
California.)

Application No. 27162

ORIGINAL

A. P. REUTHER and JAMES CREHAN, for applicant
TUDOR CAIRDNER, for Tanner Motor Tours, Ltd.,
protestant

BY THE COMMISSION:

O P I N I O N

Applicant requests a certificate of public convenience and necessity authorizing him to establish and operate a passenger bus service, on a seasonal basis, between the city of Santa Monica and the Santa Anita Race Track.

Applicant now operates as a passenger stage corporation in the Los Angeles area, conducting transportation services of a more or less specialized nature.

The service proposed by this application is restricted to persons in the city of Santa Monica desiring to attend the races at Santa Anita Race Track. No intermediate service is proposed.

A public hearing was held at Los Angeles on February 19, 1946, before Examiner Chiesa.

The evidence shows that applicant proposes to operate one trip daily in each direction, using one or two 1930 General Motors, 25-passenger parlor car coaches, leaving Santa Monica at 10 a.m. and returning at 6 p.m. The proposed route is by way of Beverly Hills, Glendale, and Pasadena. A round-trip fare of \$1.73, plus federal tax, is proposed.

No other carriers are now operating directly between said city and race track.

Tanner Motor Tours, Ltd. offered no evidence in support of its protest.

The only witness was W. B. McLeran, the applicant.

The evidence of record is insufficient to support a finding that a public need exists for the proposed service. The record shows that applicant operated said service in January and February, 1946, without a certificate. Applicant's excuse for said violation was that the application was filed December 18, 1945, and that he thought this request would receive prompt, favorable consideration and, therefore, he believed his operation to be lawful. In justification of said violations applicant called to attention the certificate authorizing him to establish a similar service to the Hollywood Race Track, Decision No. 38222, dated September 18, 1945, on Application No. 26950, dated September 7, 1945.⁽¹⁾

Applicant's testimony indicates that he had been admonished by a representative of this Commission not to operate to Santa Anita until he was granted a certificate. Since

(1) Application No. 26950, not having been protested, was granted ex parte.

July, 1941, this applicant has applied for and received several certificates of public convenience and necessity authorizing him to establish services as a "passenger stage corporation"; therefore, it is reasonable to assume that he has knowledge of the provisions of the Public Utilities Act applicable to "passenger stage corporations", and the requirements of this Commission in respect thereto. From the evidence in this record it does not appear that he was justified in assuming that favorable action would be taken on his application or that his operations were lawful because of a pending application.

Based upon the foregoing conclusions, we are of the opinion that his application should be denied and it will be so ordered.

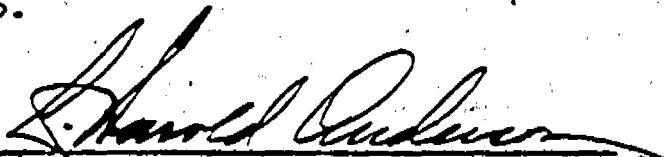
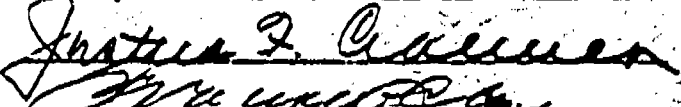
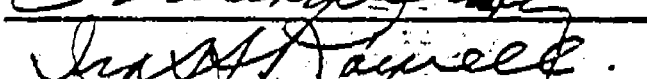
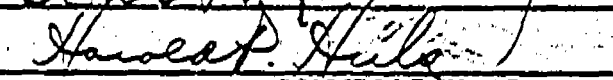
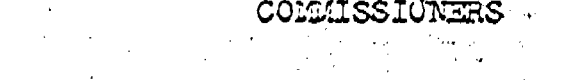
O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted, and the Commission being fully advised,

IT IS ORDERED that the above entitled application be, and it hereby is denied.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 26th day of March, 1946.






 COMMISSIONERS