

ORIGINAL

Decision No: 38875

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 EDGAR H. and EARL E. HOSKINS to sell )  
 and R. L. and A. L. BENINGER to ) Application No. 27143  
 purchase an automobile (passenger) )  
 line operated between Antioch and )  
 Camp Stoneman, California )

In the Matter of the Application of )  
 RUSSELL L. and ANNA L. BENINGER, )  
 partners, for a certificate of public )  
 convenience and necessity to operate ) Application No. 27144  
 a passenger stage service between )  
 Second Street and G Street, Antioch, )  
 California, and Evergreen Street and )  
 Belshaw Street and intermediate )  
 points, Antioch, California. )

O P I N I O N

By Application No. 27143, the Commission is requested to authorize Edgar H. and Earl E. Hoskins, partners, to transfer to R. L. and A. L. Beninger and authorize the latter to acquire from the former a passenger stage operative right between Antioch and Camp Stoneman and intermediate points, and two units of passenger stage equipment. The operative right was created by the Commission's Decision No. 36460 in Application No. 25610. This right is restricted to the transportation of passengers having either origin or destination at Camp Stoneman. The consideration involved is the sum of \$3,500, which the application states represents the value of the equipment. No value is ascribed to the operative rights.

By Application No. 27144, as amended, R. L. and A. L. Beninger, partners, request a certificate authorizing the establishment and operation of a passenger stage service within the city of

Antioch, and between Antioch and certain areas adjacent thereto. These applicants also request such certificate be granted as an extension and enlargement of, and consolidated with the operative right between Antioch and Camp Stoneman above referred to. They propose a local cash fare of 10 cents for adults and 5 cents for children aged 5 to 12 years. The through fare between any point on the Antioch operation here proposed and Camp Stoneman would be 25¢, which is the present fare charged by Hoskins Brothers between Antioch and Camp Stoneman. Applicants propose to operate two different routes. Over one of these routes, 13 round trip schedules would be operated daily except Sundays and holidays between approximately 6:20 a.m. and 10:00 p.m. On Sundays and holidays 10 round trips would be operated. Over the other route approximately 15 round trip schedules would be operated daily except Sundays and holidays. According to a financial statement marked Exhibit "C" attached to the application the Beningers show a net worth of approximately \$11,000.

As justification for the certificate sought, the Beningers assert in their application in substance that they have been requested by the local citizens and officials of the city of Antioch to establish a local service within and between Antioch and contiguous areas; that no public service of this type is presently available; that no public transportation is available to and from the various industries in and adjacent to Antioch which would be served and that the population of Antioch is approximately 10,000.

The Commission has considered these matters and is of the opinion that a public hearing is not necessary and that the requests of applicants should be granted.

R. L. and A. L. Beninger are 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.

ORDER

Applications therefor having been filed and the Commission being fully informed therein and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That Edgar H. and Earl E. Hoskins, partners, may on or before June 30, 1946, sell and transfer to R. L. and A. L. Beninger, partners, and the latter may purchase and acquire equipment described in the agreement attached to Application No. 27143 and the operative right created by Decision No. 36460 in Application No. 25610.

(2) That applicants Hoskins and applicants Beningers 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 appropriate supplements to tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(3) That a certificate of public convenience and necessity is hereby granted to R. L. and A. L. Beninger authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 24 of the Public Utilities Act, for the transportation of passengers within Antioch and between Antioch and points in Contra Costa County adjacent to the city of Antioch, as an extension and enlargement of and consolidated with the operative right created by Decision No. 36460.

(4) That in providing service pursuant to the certificate herein granted, R. L. and A. L. Beninger shall comply with the following service regulations:

- (a) Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- (b) Applicants 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, appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.
- (c) That in providing service pursuant to the certificate herein granted, applicants shall operate over and along the following route:

Commencing at Third and H Streets in the City of Antioch; thence via H Street, Second Street, L Street, Hooper Street, Cook Street, 14th Street, G Street, 13th Street, D Street, 17th Street, A Street, Rossi Avenue, D Street, Texas Street, F Street, Drake Street, A Street, Blashaw Street, Evergreen Avenue, 19th Street, A Street, 6th Street, D Street, Fourth Street, G Street and Third Street to point of beginning at H Street, with privilege of operating vehicles over Second Street and G Street to Third Street when traversing the route in the reverse direction.

Applicants may turn their motor vehicles at termini or intermediate points either in the intersection of the street, or by operating around a block, in either direction, contiguous to such intersection.

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

Dated at San Francisco, California, this 23<sup>rd</sup> day of April, 1946:

Harold Radwin  
Justus F. Cooney  
Frank W. Cooney  
Earl A. Russell  
Harold Hale  
COMMISSIONERS