

Decision No. 39032

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SKINNER SCENIC SERVICE, for a certifi-)
cate of public convenience and ne-)
cessity to operate a passenger sight-)
seeing service from San Jose to points)
of interest in and around Santa Clara)
County and return to San Jose.)

ORIGINAL

Application No. 27448

ROY E. SKINNER, JR., in propria persona.
JOHN F. BALAAM, for Peerless Stages, interested party.
C. C. COTTRELL, for Mt. Hamilton Stage Line,
protestant.
A. R. THOMPSON, for San Jose City Lines, protestant.

O P I N I O N

Roy E. Skinner, Jr., by the above entitled application seeks a certificate of public convenience and necessity authorizing him to operate four sightseeing tours commencing and terminating at San Jose. He proposes to operate in the name of Skinner Scenic Service if the certificate is granted.

A public hearing was held at San Jose May 15, 1946, before Examiner Howard at which time evidence was received and the matter submitted.

Mr. Skinner proposes to operate four round-trip sightseeing tours. Tour No. 1, as proposed, will be from San Jose to points of interest in the western Santa Clara Valley and return. The trip will include such sights as the Municipal Rose Garden, University of Santa Clara, Winchester Mystery House, Stevens Creek Dam, the Permanente Cement Plant, Senator Phelan's estate, Guadalupe Quicksilver Mines, Guadalupe Dam, and Almaden Dam. This tour is 71 miles in length and will take approximately three hours time. It will start at 1:15 p.m. and end at 4:15 p.m. The proposed fare

per passenger will be \$2.75. It will be operated Sundays, Wednesdays and Fridays only.

Tour No. 2, as planned, will be from San Jose to Stanford University and return. This trip will pass the South Bay Yacht Club at Alviso and the United States Naval Air Station at Moffett Field, proceed through Palo Alto and then circle through the Stanford University grounds. This trip covers approximately 50 miles and will be completed in about three hours. It will leave San Jose at 1:15 p.m. and will return thereto at 4:15 p.m. This tour will be operated on Tuesdays only. The proposed fare will be \$2 per passenger.

Tour No. 3, as represented, will be from San Jose to Big Basin State Park and return. The primary purpose of this trip is to afford passengers a view of the large Redwood trees in the Park. A distance of some 76 miles will be traversed and the elapsed time will be about three hours and forty-five minutes. The excursion will begin at 1:15 p.m. and end at 5 p.m. A fare of \$2.75 per passenger will be charged. This drive will be made on Thursdays only.

Tour No. 4, as offered, is from San Jose to Mt. Hamilton and return. This will be an evening trip to enable passengers to visit the Lick Observatory and look through the large telescope there. The round-trip distance is 56 miles and the elapsed time of this tour will be approximately four hours. The drive will commence at 6:15 p.m. and terminate at 10:15 p.m. The fare per passenger will be \$2.25. This trip will be conducted on Fridays only, as public visiting at the Observatory is limited to Friday nights at present. If the public night is changed, applicant plans to alter his schedule so as to conform with such shift.

Applicant intends to pick up passengers at the De Anza Hotel, the Hotel Sainte Claire and the Municipal Auditorium in San Jose. No local service in the city will be performed, and no passengers will be picked up or discharged en route. Applicant asks permission to cancel any scheduled trip if there are no passengers present at the time set for departure.

Mr. Skinner owns a 12-passenger Lincoln limousine which he proposes to use in performing such sightseeing service. It is being equipped with a radio loud speaker to enable the driver to describe the points of interest along the tours followed. Mr. Skinner will drive the vehicle himself.

The manager of the San Jose City Lines entered a protest to the granting of this application on the ground that his company operates a charter car service which might be adversely affected if Mr. Skinner is authorized to institute the proposed service. The Commission has not assumed jurisdiction of true charter car service. It may be operated without first securing a certificate of public convenience and necessity from this body. The proposal of applicant will not compete with the local service rendered by the San Jose City Lines. Mr. Roper, who operates the Mt. Hamilton Stage Line, appeared to oppose the granting of the application in so far as Tour No. 4 to the Observatory is concerned. Mr. Roper has a prescriptive right to operate a freight and passenger service to Mt. Hamilton. He offers an on-call night service to Mt. Hamilton designed to provide transportation to those who wish to view the Observatory on the night each week it is open to the public. He says there is practically no demand for such a service. He states he has hauled only 15 passengers to Mt. Hamilton at night since September of 1945. Mr. Roper uses a 7-passenger car pulling a trailer to perform his operation. He charges \$4 per passenger for

a trip which leaves San Jose at 4:30 p.m. Less than one-fourth of his revenue is derived from carrying passengers. In addition to his freight business he has a contract with the Federal Government to handle the mail on his route. Also he takes laundry and cleaning from and to residents of Mt. Hamilton for which he receives a commission.

No passenger service devoted to sightseeing is operated from San Jose. The evidence of record shows there is a desire for applicant's proposed service. The Chamber of Commerce of the City of San Jose favors it primarily to accommodate tourists attending conventions in the city who would like to see nearby points of interest. The president of the San Jose Teachers College and the principal of the Abraham Lincoln High School wish to see such a service inaugurated so it would be available to their students. They are primarily interested in the trip to the Lick Observatory for educational reasons. The lower fare of \$2.25 as against \$4 charged by Mt. Hamilton Stage Line and the later time of departure of applicant, which is 6:15 p.m. instead of 4:30 p.m., renders Mr. Skinner's proposal more attractive than that of Mt. Hamilton Stage Line.

Applicant appears to be an energetic, competent young man. He has had no previous experience in the transportation business but is optimistic about his ability to stimulate traffic and successfully maintain his proposed operation. The success of the venture is uncertain but as the evidence shows some public demand for such a service and as applicant is willing and even anxious to supply it, the application will be granted.

Roy E. Skinner, Jr., 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

Public hearing having been held in the above entitled application, the matter submitted, and the Commission fully advised:

IT IS ORDERED that a certificate of public convenience and necessity is granted to Roy E. Skinner, Jr., authorizing him to establish and operate an automotive sightseeing service for the transportation of passengers and baggage as a passenger stage corporation, as defined by Section 24 of the Public Utilities Act, to commence and terminate in the City of San Jose, consisting of four tours designated as the Western Santa Clara Valley Tour, the Stanford University Tour, the Big Basin State Park Tour and the Mt. Hamilton Tour which shall pass by or through the following points en route:

Western Santa Clara Valley Tour - From San Jose to Mission Santa Clara, Winchester Mystery House, Cupertino, Permanente Plant, Stevens Creek Dam, Saratoga, Senator Phelan's estate, Los Altos, Guadalupe Mines and Dam, Almaden and Almaden Dam.

Stanford University Tour - From San Jose to Alviso, Moffett Field, Palo Alto, Stanford University, Los Altos, and Santa Clara.

Big Basin State Park Tour - From San Jose, through Saratoga, Big Basin, Boulder Creek and Los Altos.

Mt. Hamilton Tour - From San Jose to Mt. Hamilton.

IT IS FURTHER ORDERED that in conducting said passenger stage operations, pursuant to the above certificate, Roy E. Skinner, Jr., 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 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, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than five days' notice to the Commission and the public.
- (c) Applicant shall conduct such passenger stage service over and along the most appropriate streets, roads or highways between the points it is authorized to serve.

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

Dated at San Francisco, California, this 28th day of May, 1946.

David Anderson
Justus J. Casner
Frank W. ...
... ..
Harold P. Kula
 COMMISSIONERS