

Decision No. ~~3050~~

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ALFRED L. RIDDLE, doing business as RIDDLE SCENIC TOURS, for certificate of public convenience and necessity to operate escorted sightseeing tours, both scheduled and unscheduled service as a common carrier between Los Angeles, California, and points and places in Death Valley National Monument.

ORIGINAL

Application No. 27237

Glanz and Russell, of Los Angeles, and John S. Halley, of Reno, for applicant; Tudor Gairdner, of Los Angeles, for Tanner Motor Tours, Ltd., protestant. A. W. Anthis, for Las Vegas-Tonopah-Reno Stage Lines, interested party.

O P I N I O N

Applicant requests authority to establish and operate a service as a common carrier for the transportation of passengers and their baggage, on escorted sightseeing tours, as follows:

(A) Scheduled service from November to April of the following year, and unscheduled service at all times during the year, between Los Angeles and Furnace Creek in Death Valley National Monument, including side trips within the Monument, over and along the following described routes: Route 1, via San Bernardino, Barstow, Baker and Death Valley Junction; Route 2 via San Fernando, Mojave, Olancho and Lone Pine; Route 3, via San Bernardino, Adelanto and Trona.

(B) Between Furnace Creek, on the one hand, and Furnace Creek Airport, Death Valley Junction, Baker, Yermo, Barstow, Stove Pipe Wells, Olancho, Lone Pine, Mojave, Trona, Ryan, Lante's

View, Bad Water, Scotty's Castle and Los Angeles, on the other hand, over irregular routes.

(C) Special or Chartered Car service only, between Furnace Creek, on the one hand, and on the other, points and places in the state of California, over irregular routes.

(D) Between Furnace Creek, on the one hand, and other points and places within Death Valley National Monument, on the other hand, over irregular routes.

It is proposed to restrict all services to passengers having either origin or destination within Death Valley National Monument.

Public hearings were held in this matter at Death Valley Junction and at Los Angeles. Evidence, oral and documentary having been adduced, the matter was submitted for decision.

Applicant has been engaged in the sightseeing transportation business for the past 21 years, and now operates an extensive escorted sightseeing and tours business in the Las Vegas, Nevada, and Boulder Dam areas. He also operates between Las Vegas and Death Valley National Monument under authority granted by the Interstate Commerce Commission. The record shows that applicant is financially responsible and a capable and satisfactory operator of the type of transportation service herein proposed. Offices, a garage and repair shop are maintained in Las Vegas. Applicant also maintains travel offices or bureaus in Death Valley and Los Angeles. From November to April applicant operates a daily

sightseeing service between Las Vegas and Death Valley over regular routes and throughout the year irregular route tours are conducted between said points under authority granted by the Interstate Commerce Commission. Applicant does not operate intrastate in California.

The evidence shows that applicant is the only person permitted by the Director of the National Park Service to perform in Death Valley National Monument, "the business of operating sightseeing and charter service by automobile or bus drive-yourself, and travel agency services." Although the permit is revocable at the discretion of the Director, it is the policy of the Park Service to continue such permission so long as the permittee renders satisfactory service.

In the service between Los Angeles and Death Valley applicant proposed to offer the public a scenic touring service and to use the best limousine or station wagon equipment obtainable. He now owns sufficient equipment of the type indicated to establish the proposed services. In his operations within the monument area and between Death Valley and Lone Pine, Barstow or Mojave various types of automobiles or buses would be used, from five passenger sedans to station wagons, limousines or club coaches, depending upon the requirements of the particular tour or service and public demand.

The evidence shows that Death Valley National Monument was established in 1933 and that the number of persons visiting the Monument has increased annually, reaching a peak of approximately 96,000 persons during the 1941-1942 season. The park superintendent testified that this is about the maximum number of visitors that may be expected with present facilities and accommodations. The evidence shows that the Death Valley Hotel Company has a building program for the near future that will materially increase its public accommodations and that the park

service proposes to spend approximately three million dollars within the next three years for roads, trails and other facilities. The Monument is being publicized by the park service, travel bureaus, air lines, railroads, and applicant in magazine advertisements and articles, distribution of booklets, advertising pamphlets and radio programs. Although the opening of the 1945-1946 season was retarded, approximately 55,000 persons visited Death Valley and approximately 1,700 arrived in public motor vehicles. The evidence is clear that the Monument is constantly growing in popularity as a desert scenic attraction.

Returning to applicant's request for authority to render the sightseeing services as set forth hereinabove in Paragraphs A, B, C and D we shall first consider the operations as proposed under Paragraphs B and C.

As to the proposed services described in Paragraph B there is slight, if any, evidence in this record to support a declaration that public convenience and necessity require the establishment of a sightseeing service between any of the named points and places over irregular routes. The points and places named in Paragraph B, excepting Ryan, are either located along one of the three regular routes described hereinabove in Paragraph A or are within the National Monument area along Monument roads. It does not appear from the evidence in this proceeding that the proposed irregular route service is either convenient, necessary, or desirable. Therefore we are unable to find that public convenience and necessity requires such service. Service from and to Ryan and points intermediate between Los Angeles and Death Valley via the regular routes heretofore described will be considered with the service as proposed in Paragraph A.

As to the proposed service outlined in Paragraph C, "Special or Charter Car Service only, between Furnace Creek, on the one hand, and on the other, points and places in the State of California, over irregular routes," it is clear that this

service will not be performed between fixed termini nor over regular routes, although passengers would be destined to or originate in Death Valley National Monument. Applicant testified that any route would be used "as directed by the charter party" and that passengers would be picked up or discharged anywhere within the state. A certificate of public convenience and necessity is not required from this Commission to operate a bona fide service of this type. In re APPLICATION OF CALIFORNIA CHARTER CAR SERVICE, et al., Decision No. 26504 (1933), on Application No. 18973, et al.

Applicant's proposed escorted sightseeing service between Los Angeles and Death Valley National Monument, as outlined in Paragraph A, will consist, principally, of two weekly scheduled round trips over the described routes and a similar on-call service. Applicant also proposes an unscheduled service between Barstow, Baker, Death Valley Junction and Ryan, points along Route 1, and Death Valley, and between Mojave and Olancho, points on Route 2, and Death Valley. A once weekly scheduled service is proposed between Lone Pine, also situated on Route 2, and Death Valley. Of the two tours proposed from Los Angeles, one is a four-day tour, via Route 1 and return via Route 2, including side trips within the Monument, leaving Los Angeles at 8:00 A.M. on Tuesday and returning at 6:00 P.M. on Friday. The other is a two-day tour, via Route 1 and returning via Route 3, which will leave Los Angeles Saturday at 8:00 A.M. and return Sunday at 6:00 P.M. A round trip fare, for either tour, of \$30.00 and one-way fare of \$15.00 is proposed. Other one-way fares to Death Valley are: Barstow and Mojave, \$12.50; Baker, Olancho and Lone Pine, \$7.50; Ryan, \$1.50. The fares are for transportation only.

The evidence shows that Routes 1 and 2 are the principal routes traveled between Los Angeles and Death Valley. Although Route 3, via Trona, is less used by the traveling public, it appears to have some merit as a scenic tour. Baker is the junction point of U. S. Highways Nos. 91 and 466 with State Highway No. 127 leading into the Valley; Barstow and Mojave are rail

transfer points for tourists arriving from the north and east, and Lone Pine and Olancho are the westerly gateways to Death Valley and are located in the southerly part of Owens Valley, a mountain recreation and vacation area. Ryan is a local point of interest situated near Furnace Creek but outside of the Monument boundaries.

The Director of the Monument testified that he receives many inquiries and requests for transportation service into the Monument and that public demand for scenic tour service is increasing. He stated that there is a particular need for public transportation between Owens Valley and Death Valley. A state senator testified that there is a need for a service, as proposed, from the south, between Los Angeles, via Barstow, and Death Valley. The manager of Furnace Creek Inn also testified that there is a need for the proposed service from Los Angeles. Another witness, experienced in the travel bureau business and since March 1, 1946, employed as traffic representative in applicant's Los Angeles office, testified that in the months of March and April, 1946, she received many inquiries or requests for limousine sightseeing tours into Death Valley. The evidence shows that applicant is not advertising or conducting any intrastate business in California but maintains a Los Angeles office to promote interest in and travel to Death Valley from his headquarters in Las Vegas. Several other witnesses, some of whom were employees of applicant, also testified that a need exists for the Los Angeles service as well as service to and from Barstow, Baker, Mojave and Lone Pine. The testimony of several leading business men of Lone Pine indicates a definite need for:

transportation between that city and Death Valley.

Protestant, Tamer Motor Tours, holds a certificate of public convenience and necessity authorizing it to operate a sightseeing service between Los Angeles and Death Valley over routes which are practically the same as Routes 1 and 2. The type of service offered is similar to that proposed by applicant and is restricted to passengers whose point of origin or destination is Los Angeles or Barstow. Protestant also has a round trip fare of \$30.00 for transportation only, and also offers an all-expense tour when accommodations are available at Furnace Creek Inn or Ranch. It is protestant's contention that there is little demand for tourist transportation between Los Angeles and Death Valley and therefore applicant should not be permitted to become its competitor.

Travel bureau representatives and employees of protestant, seven in all, were called to testify for protestant. In substance they stated that during the 1945-1946 season inquiries and demands for transportation to Death Valley were light. The evidence shows crowded hotel conditions in Death Valley. Creek had an adverse effect on the sale of limousine transportation and that this condition did not prevail prior to the war.

We have carefully considered the testimony of the witnesses both for applicant and for protestant, particularly the testimony of witnesses having no business connections with either of the parties, and we find that there is substantial evidence in this record to support a finding that public convenience and necessity requires the establishment of an additional sightseeing service between Los Angeles and Death Valley National Monument and between the hereinabove named intermediate points and Death Valley National Monument, as proposed by applicant.

We also find that public convenience and necessity does not require the establishment of sightseeing service as proposed in Paragraphs B and C.

The application will be granted in part and denied in part.

Alfred L. Riddle 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

A public hearing having been had in the above entitled proceeding, the Commission being fully advised, and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Alfred L. Riddle authorizing the establishment and operation of a service as a "passenger stage corporation," as that term is defined in Section 27 of the Public Utilities Act, for the transportation of passengers and their baggage, between Los Angeles, Barstow, Baker, Death Valley Junction, Mojave, Olancho, Lone Pine and Ryan, on the one hand, and Death Valley National Monument, on the other hand; during the season from approximately the first day of November to the thirtieth day of April.

(2) That in providing service pursuant to the certificate herein granted, Alfred L. Riddle 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 thirty (30) days from the effective date hereof.

(b) Applicant shall, within sixty (60) days from the effective date hereof and upon not less than one (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, tariffs and time schedules satisfactory to the Commission.

(c) Subject to the authority of this Commission, to change or modify such at any time, Alfred L. Riddle shall conduct said passenger stage operation over and along the following described routes:

Route 1: Beginning at applicant's terminus in the City of Los Angeles, thence along U. S. Highway No. 66 to Barstow, thence U. S. Highway No. 91 to Baker, thence State Highway No. 127 to Death Valley Junction, thence State Highway No. 190 to Furnace Creek in Death Valley National Monument; including, also, a deviation from said State Highway No. 190 along an unnamed road to serve a point known as Ryan.

Route 2: Beginning at applicant's terminus in the City of Los Angeles, thence along U. S. Highway No. 6 to Lone Pine, thence State Highway No. 190 to Furnace Creek in Death Valley National Monument; including, also, an alternate route between Olancho and Furnace Creek along a road known as the Olancho cut-off and State Highway No. 190.

Route 3: Beginning at applicant's terminus in the City of Los Angeles, thence along U. S. Highways Nos. 70 and 99 to their intersection with State Highway No. 18 (two miles easterly of Colton), thence State Highway No. 18 to San Bernardino, thence U. S. Highway No. 395 to its junction with an unnumbered highway approximately one mile northerly of Red Mountain; thence along said unnumbered highway, via Trona, and State Highway No. 190 to Furnace Creek in Death Valley National Monument.

(3) That, except as herein authorized, Application No. 27237 is hereby denied.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of October, 1946.

Harold P. Kuba

James H. Powell

G. J. Dwyer  
COMMISSIONERS