

Decision No. 42585**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 N. JACK BENSON and ELLA S. BENSON,)
 partners, doing business as BENSON)
 TOURS, BORREGO SPRINGS, for a cer-)
 tificate of public convenience and) Application No. 29869
 necessity to operate as a passenger)
 stage corporation between Borrego)
 Springs, Los Angeles, San Diego,)
 and various other points in)
 California.)

Bailey & Poe, by Arlo D. Poe, for applicant

O P I N I O N

Applicants N. Jack Benson and Ella S. Benson, husband and wife, are doing business as Benson Tours, a copartnership. By this application they seek authority to establish and operate an "on call" service as a passenger stage corporation for the transportation of persons between Borrego Springs and various points and places in Southern California as hereinafter more specifically set forth.

A public hearing was held in Borrego Springs on February 10, 1949. Evidence having been adduced, the matter was submitted for decision.

Many witnesses testified that a public transportation and sightseeing service, as proposed, is convenient and necessary for the residents, tourists, employees, and others interested in traveling to and from Borrego Valley.

From the evidence of record we find the facts to be as follows:

That applicants now operate a cab service and have other business interests in Borrego Springs and are the owners of residential and business properties there.

That applicant proposes to conduct four "on call" passenger stage operations between Borrego Springs, on the one hand, and Brawley, Julian, San Diego, and Los Angeles, on the other hand; that six sight-seeing tours are also proposed, designated as the Mt. Laguna, Idyllwild-Palm Springs, Palomar Mountain Observatory, Split Mountain, Coyote Canyon and Painted Desert-Badlands Tours.

That the proposed fares are:

BETWEEN	AND	OW	RT	Minimum Charge
Borrego Springs, Cal.	Brawley, Cal.	\$ 3.50	\$ 5.00	\$20.00
(Hoberg's Desert Resort)	Julian "	2.00	3.00	10.00
	Los Angeles "	10.00	15.00	40.00
	San Diego "	6.00	9.00	30.00

(CHARGES FOR SIGHT-SEEING TOURS)

			RT	Minimum Charge
"	"	Mt. Laguna (Tour)	\$7.50	\$37.50
"	"	Idyllwild-Palm Springs (Tour)	8.50	42.50
"	"	Palomar Mountain Observatory (Tour)	5.00	25.00
"	"	Split Mountain Canyon (Tour)	5.00	25.00
"	"	Coyote Canyon (Tour)	2.00	10.00
"	"	Painted Desert and Badlands (Tour)	2.50	12.50

That applicants' equipment consists of one 8-passenger Chrysler Sedan (1940), one 6-passenger Oldsmobile (1947), one 7-passenger Dodge Command-Car (1942), and Ford Jeep, all of which are in good condition and suitable for the various proposed services and trips.

That applicant does not propose to pick up or discharge any passengers intermediate to Borrego Valley, on the one hand, and Brawley, Julian, San Diego, and Los Angeles, on the other hand, except that passengers traveling between Julian and Borrego will be accommodated on the Borrego-San Diego trip.

That Borrego Springs is approximately 90 miles north-easterly of San Diego and is in the Borrego Valley, a desert resort and farming area within, but not a part of, the Anza Desert State Park. For the past several years the Borrego Land & Development Company has been developing thousands of acres as a high-class desert resort and farming community. Within the valley there are large farms, ranches, hotel resorts, motels, various small businesses, and stores. A large modern shopping center, and a country club and golf course are now in the process of construction. There are several hundred permanent residents in the valley and the large farms and ranches, such as the Di Giorgio Grape Vineyards, employ hundreds of persons who must reside there when employed because of the distances to outside points.

That the Borrego Desert Lodge is a resort hotel having a present capacity of 40 guests and has under construction additional facilities which will accommodate twice that number. Hoberg's Desert Resort, a resort hotel, has accommodations for approximately 150 guests and is planning expansion of its facilities to a capacity of 300 guests within a year. Such resorts anticipate a number of guests arriving in Los Angeles and San Diego by train, and other modes of transportation requiring motor transportation to Borrego Valley. The Schindler-Montgomery and Turnage hotel and resort operators have purchased sites in Borrego Springs

and plan construction of resort hotels in the near future.

That there is no public transportation service available between Borrego Springs and Los Angeles, San Diego, Julian, and Brawley. With the development now in progress in Borrego Valley there will be an increasing demand for public transportation service between Borrego Valley and such points.

That the operators of resort hotels in Borrego Valley desire sight-seeing and recreational tours as a feature of entertainment for their guests. The region in which Borrego Valley is located is rich in historical background and contains many points of scenic beauty accessible only by motor transportation. Applicants have provided charter service for such tours in the past and are thoroughly familiar with the area.

That there is no passenger stage service authorized as proposed herein except that Mountain Stage Line is authorized to transport persons, baggage, and express, limited to shipments of 100 pounds or less, between Julian and Brawley via Borrego Springs (Dec. No. 41068, on Application No. 28730). The evidence in this proceeding indicates that this service is not being performed at present. From the foregoing findings, we conclude that public convenience and necessity require the establishment and operation of the proposed transportation service.

The application, which is not opposed, will be granted.

N. Jack Benson and Ella S. Benson 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.

O R D E R

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises 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 N. Jack Benson and Ella S. Benson, copartners, doing business as Benson Tours, authorizing the establishment and operation of a service as a "passenger stage corporation", as that term is defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act, for the transportation of persons and their baggage (1) between Borrego Springs, on the one hand, and Brawley, Julian, San Diego, and Los Angeles, on the other hand, and a sight-seeing service (2) between Borrego Springs, on the one hand, and Mt. Laguna, Idyllwild, Palm Springs, Palomar Mountain Observatory, Split Mountain Canyon, Coyote Canyon, and Painted Desert-Badlands, on the other hand, subject to the following conditions and restrictions:

- (a) That in performing the passenger stage operations between Borrego Springs, on the one hand, and Brawley, Julian, San Diego, and Los Angeles, on the other hand, applicant shall not transport any passengers having origin or destination at any intermediate point except that passengers

originating at, or destined to, Julian may be transported when operating between Borrego Springs and San Diego.

- (b) That in performing the sight-seeing operations applicant shall transport only sight-seeing passengers upon payment of full round-trip fares.

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

- (a) Applicants 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) Applicants shall, within sixty (60) days from the effective date hereof and upon not less than five (5) days' 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, N. Jack Benson and Ella S. Benson shall conduct said passenger stage operation over and along the following routes:

Julian Route

Between Borrego Springs and Julian via county road from Borrego Springs to California Highway 78 and thence via California Highway 78 to Julian.

Los Angeles Route

Between Borrego Springs and Los Angeles via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to San Felipe Valley Road, thence via San Felipe Valley road to California Highway 71, thence via California Highway 71 to Corona, thence via California Highway 18 to Anaheim, thence via U. S. Highway 101 to Los Angeles.

San Diego Route

Between Borrego Springs and San Diego via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to Ramona, thence via County road through Lakeside, Santee, and Mission Valley, entering San Diego via Sixth Street.

Mt. Laguna Route

Sight-seeing tour from Borrego Springs to Mt. Laguna and return, via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to Julian, thence via California Highway 79 and county road to Mt. Laguna and to U. S. Highway 80, thence via U. S. Highway 80 to Seelcy, thence via California Highway 98 to Calexico, thence via U. S. Highway 99 to Kane Springs, thence via California Highway 78 to junction of county road first mentioned, thence via such county road to Borrego Springs.

Idyllwild-Palm Springs Route

Sight-seeing tour from Borrego Springs to Idyllwild, Palm Springs, and return via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to San Felipe Valley road, thence via San Felipe Valley Road to California Highway 79, thence via California Highway 79 to Aguanga, thence via county road through Coahuila and Anza to California Highway 74, thence via California Highway 74 to Idyllwild, thence returning California Highway 74 to California Highway 111, thence via California Highway 111 to Palm Springs, thence returning via California Highway 111 to Indio, thence via U. S. Highway 99 to Kane Springs, thence via California Highway 78 to county road first mentioned, thence via such county road to Borrego Springs.

Palomar Mountain Observatory Route

Sight-seeing tour from Borrego Springs to Palomar Mountain Observatory and return via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to San Felipe Valley road, thence via San Felipe Valley road to California Highway 79, thence southerly via California Highway 79 to Palomar Mountain road, thence via Palomar Mountain road to Palomar Mountain Observatory, thence return to California Highway 79 via Palomar Mountain road, thence via California Highway 79 to Santa Isabel, thence via California Highway 78 to county road first mentioned, thence via such county road to Borrego Springs.

Split Mountain Canyon Route

Sight-seeing tour from Borrego Springs to Split Mountain Canyon and return, via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to Ocotillo, thence via unnumbered roads and washes to Split Mountain Canyon, approximately 15 miles southwest on Ocotillo, thence returning via the same route to Borrego Springs.

Coyote Canyon Route

Sight-seeing tour from Borrego Springs to Coyote Canyon and return, via unnumbered roads and trails from Borrego Springs northerly to the De Anza Ranch and Coyote Canyon and return.

Painted Desert-Badlands Route

Sight-seeing tour from Borrego Springs to Painted Desert and Badlands and return via unnumbered roads and trails from Borrego Springs northeasterly to Clark Dry Lake, the California Painted Desert and Badlands and return.

Brawley Route

Between Borrego Springs and Brawley via county road from Borrego Springs to California Highway 78, thence via California Highway 78 to U. S. Highway 99, thence via U. S. Highway 99 to Brawley.

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

Dated at Los Angeles, California, this 8th day of March, 1949.

R. E. [Signature]
Justus F. [Signature]
[Signature]
[Signature]

COMMISSIONERS