

Decision No. 42586

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HERBERT S. HAUGHTON, doing business)
 as HAUGHTON TRANSPORTATION CO., for)
 a certificate of public convenience) Application No. 29870
 and necessity to operate as a highway)
 common carrier between San Diego and)
 Borrego Springs, California.)

Arlo D. Poe for applicant; R. King for Bisher Truck
 Line, interested party; C. A. Beagle for Julian Warner
 Truck Line, protestant.

O P I N I O N

Applicant, Herbert S. Haughton, an individual doing business as Haughton Transportation Co., is now engaged in the transportation of property as a highway contract carrier and as a radial highway common carrier under permits issued by this Commission. His principal place of business is in Borrego Valley, San Diego County, where he also operates a general store, a resort property, and is the owner of business and residential property. By this application he requests authority to establish and operate a service as a highway common carrier for the transportation of property between the City of San Diego and Borrego Springs, serving no intermediate points except those in Borrego Valley⁽¹⁾.

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

(1) Borrego Springs is in Borrego Valley which is a desert resort and farming area approximately fourteen by eight miles in extent, situated in the northeastern part of San Diego County, in the Anza Desert State Park.

Eleven witnesses testified that a need exists for the transportation service proposed by applicant. The witnesses are permanent residents of Borrego Valley and have established businesses there.

Based upon the evidence of record, we find the facts to be as follows:

Applicant proposes a scheduled service leaving Borrego Springs at 6:00 a.m. each Monday and Friday, and leaving San Diego on the return trip at 3:00 p.m. of the same days.

The regular route proposed is via State Highway No. 78 to Ramona, thence continuing along said highway and the Poway cut-off to U. S. Highway No. 395, thence along U. S. 395 to San Diego, returning by the same route. An alternate route, to be used when the regular route is not accessible, is proposed via State Highways Nos. 78 to Julian and 79 to its intersection with U. S. Highway No. 80, near Descanso, thence via U. S. Highway No. 80 to San Diego.

Applicant owns the following equipment which will be used in performing the proposed transportation service: one 1948 6-ton Ford, Model F-6, 8-cylinder truck and one 1946 International K-8 tractor with semi-trailer of 20-ton capacity.

The rates proposed to be assessed in the operation of such service, and the rules and regulations governing the same, are those prescribed by this Commission in the current rate orders.

There is no other highway common carrier service for the transportation of property operated or authorized in or out

of Borrego Valley as herein proposed⁽²⁾.

Borrego Valley is a rapidly developing area consisting of the community of Borrego Springs and several nearby resorts, guest ranches and large farms. Within the past two years the Borrego Land and Development Company has subdivided approximately 2,000 acres, has sold in excess of 850 business and residential parcels of the value of over a million dollars; and the company is now in the process of constructing a business building, country club and golf course. Said company, under the direction of Mr. A. A. Burnaud, its president, is now engaged in an extensive development program with a view toward making Borrego Springs one of the leading winter resorts. The Hoberg hotel interests have constructed and are expanding a first-class resort hotel with a capacity in excess of 100 guests. The Desert Lodge has recently completed several large units as part of its expansion program. There are several housekeeping units, duplexes, a modern motel, and many modern residences located in the valley and several large agricultural projects and small retail business establishments are now operating there.

The community of Borrego Springs has telephone service, a water company, and electric power service, and many miles of paved streets and roads have been completed.

Julian-Warner Truck Line, protestant, does not operate a highway common carrier service into Borrego Valley and applicant's proposed service is not competitive with protestant's highway common carrier operation.

(2) 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).

From the foregoing findings we conclude that public convenience and necessity require the establishment and operation of the proposed transportation service. Accordingly, the application will be granted.

Herbert S. Haughton 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 held in the above-entitled proceeding, the matter having been submitted and 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 Herbert S. Haughton, authorizing the establishment and operation of a highway common carrier service for the transportation of property between the City of San Diego, on the one hand, and points and places within Borrego Valley, on the other hand.

(2) That in the operation of said highway common carrier service, pursuant to the foregoing certificate, Herbert S. Haughton 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 on 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. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time by further order, applicant shall conduct said highway common carrier service over and along the following routes:

Regular Route

Between Borrego Springs and San Diego, via unnumbered county road from Borrego Springs to its intersection with California Highway 78, thence via California Highway 78 to Ramona, thence via unnumbered Highway known as Ramona-Lakeside Highway to the Poway cut-off highway, thence via the Poway cut-off highway to U. S. Highway 395, thence via U. S. Highway 395 to San Diego.

Alternate Route

Same as principal route via unnumbered highway and California Highway 78 to Julian, thence via California Highway 79 to U. S. Highway 80, thence via U. S. Highway 80 to San Diego.

The alternate route is to be used only when passage by way of the regular route is not possible or is inadvisable.

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. Z. Johnson
Justice J. Cramer
Robert F. Quinn
Harold P. Kula

COMMISSIONERS