

ORIGINALDecision No. 64117

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 FREEMAN CHARLES WHITNEY for certifi-
 cate of public convenience and neces-
 sity to operate a passenger stage
 corporation service between Lone
 Pine, California, and points of in-
 terest in Inyo County.

Application No. 44355
 (Filed April 16, 1962)

Kenneth A. Murphy for applicant.
John M. Aitchison for Southern Inyo Chamber
 of Commerce, interested party.
Fred G. Ballenger for the Commission's staff.

O P I N I O N

Applicant requests authority to establish and operate a sight-seeing passenger stage service in Lone Pine and vicinity, and between Lone Pine and Panamint Springs resort. In the Lone Pine area he proposes trips to Mt. Whitney Portal and the Alabama Hills.

A public hearing was held in Lone Pine on June 19, 1962, before Examiner Mark V. Chiesa.

The evidence shows that applicant has negotiated for a new Travelall International seven-passenger station wagon that will be adequate for the proposed service. At the hearing applicant revised his proposed service by eliminating Trip No. 1 entirely. He proposes to operate Trip No. 2 between Lone Pine and Panamint Springs resort on Mondays,

Wednesdays and Fridays at a round-trip fare of \$25 per person. This trip will take approximately eleven hours and will include, as points of interest, the Talc City, Darwin and Cerro Gordo mines, Lee Flats, and the Hunter Mountain region. Trips Nos. 3 and 4 will be operated on the other four days. The total round-trip distance is approximately 128 miles. Trip No. 3 will be operated in the morning between Lone Pine and the Cerro Gordo mine and return. The round-trip distance is 56 miles and the elapsed time will be approximately five hours. The proposed round-trip fare is \$12.50. Trip No. 4 is an afternoon trip to Mt. Whitney Portal and through the Alabama Hills, a round-trip distance of approximately 38 miles. The proposed fare is \$10. All trips will be operated regularly for a minimum of three round-trip fares.

Applicant will maintain his terminal at the Dow Villa Motel. He proposes to advertise his service locally by distributing brochures at motels, restaurants and at other locations. He is an experienced driver in this area and now is employed as a truck driver. Pending the development of the sight-seeing service he has made arrangements with his present employer to work as a relief driver. Applicant testified that he knows the Commission's regulations concerning the hours of service and insurance requirements and that he will comply therewith. It is his intention to offer and operate the proposed service for at least a period of one year regardless of revenues. There is no other public sight-seeing service available in the area. Several witnesses testified in support of

the application and to the effect that there is a year-round need for a service such as is proposed. The area is frequented by vacationers and sight-seers, and there are many motels in the area. The manager of one of the large motels testified that 20% of his guests stay two days or longer.

The record shows that applicant's financial condition, income, and anticipated revenue will enable him to establish and operate the proposed service. Each trip of three or more fares will return more than out-of-pocket costs.

The Commission finds that public convenience and necessity require the proposed service. The application is not opposed and it will be granted as hereafter set forth. Applicant's trips will be designated as Routes Nos. 1, 2 and 3 in place of Trips Nos. 2, 3 and 4 as shown in the application, and will be described as hereinafter set forth.

Freeman Charles Whitney is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

An application having been filed, the Commission being 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 Freeman Charles Whitney, an individual, authorizing the establishment and operation of a service as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the transportation of persons and their baggage between the points and places and along the routes as more specifically described in Appendix A attached hereto and made a part hereof.

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

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 98 and insurance requirements of the Commission's General Order No. 101-A. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 98 and 101-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file in the

Commission's office in triplicate tariffs and timetables satisfactory to the Commission.

(c) The tariff and timetable filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.

(d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98.

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

Dated at San Francisco, California, this 14th day of AUGUST, 1962.

George G. Grover
President

[Signature]

Fredrick B. Hallock

Commissioners

C. Lyn Fox
Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

Freeman Charles Whitney, by certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport persons and their baggage between Lone Pine, on the one hand, and Mt. Whitney Portal, Cerro Gordo Mine and Panamint Springs, on the other hand, along routes as hereinafter described.

Subject to the authority of this Commission to change or modify said passenger stage operation at any time, applicant shall conduct said operation over and along the following routes:

Route No. 1:

Starting at the Dow Villa Hotel and Motel (the terminal point for pickup and return), located at 310 S. Main Street, in the Town of Lone Pine, County of Inyo, State of California; thence in a southerly direction on Highway No. 395 and No. 6 to the intersection of Highway Nos. 395 and 6 with Highway No. 190; thence on Highway No. 190 in a southeasterly direction (passing through the Town of Keeler) to Inyo County Road No. 5012; thence on Inyo County Road in an easterly direction to the settlement of Talc City; thence from Talc City on County Road No. 5055 to Inyo County Road No. 5011; thence on Inyo County Road 5011 to the mining Town of Darwin; thence through Darwin and still on Inyo County Road No. 5011 to Inyo County Road Nos. 5014 and 5016; thence on Inyo County Road Nos. 5014 and 5016 to Highway No. 190; thence on Highway No. 190 in an easterly direction to Panamint Springs Resort; then from Panamint Springs Resort on Highway No. 190 in a westerly direction to County of Inyo Road No. 5013-a; thence on Inyo County Road No. 5013-a to Lee Flats (where Inyo County Road junctures with Inyo County Road No. 4047); (continued on Original Page 2)

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Route No. 1 (Continued)

thence on Inyo County Road No. 4047 in a northeasterly direction to the southern tip of Hunter Mountain; thence from this point back in a southwesterly direction on Inyo County Road No. 4047 to Inyo County Road No. 4099; thence on Inyo County Road No. 4099 in a northwesterly direction to Inyo County Road No. 4027; thence on Inyo County Road No. 4027 in a southwesterly direction to Cerro Gordo Mine; thence, and still, on No. 4027 to Highway No. 190; thence on Highway No. 190 in a northwesterly direction to Highway No. 395 and No. 6; thence on Highway No. 395 and No. 6 in a northerly direction to Lone Pine and the Dow Villa Motel and Hotel.

Route No. 2:

Starting at the Dow Villa Motel and Hotel (terminal point for pickup and return), located at 310 S. Main Street, Lone Pine, California; thence in a southerly direction on Highway No. 395 and No. 6 to the intersection of Highway No. 395 and No. 6 with Highway No. 190; thence on Highway No. 190 in a southeasterly direction (passing through the Town of Keeler) to Inyo County Road No. 4027; thence on Inyo County Road No. 4027 to Cerro Gordo Mine; thence from Cerro Gordo Mine on County Road No. 4027 back to Highway No. 190; thence on Highway No. 190 in a northwesterly direction to Highway No. 395 and No. 6; thence on Highway No. 395 and No. 6 in a northerly direction on Highway No. 395 and No. 6 to Lone Pine and the Dow Villa Motel and Hotel.

Route No. 3:

From the Dow Villa Motel and Hotel in a southerly direction on Highway No. 395 and No. 6 to County Road No. 4023; thence on County Road No. 4023 in a westerly direction to County Road No. 4017; thence on County Road No. 4017 in a northeasterly direction through Tuttle Creek Canyon to County Road No. 4018; (continued on Original Page 3)

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Route No. 3 (Continued)

thence on County Road No. 4018 in a westerly direction to Mt. Whitney Portal; thence back from Mt. Whitney Portal on County Road No. 4018 in an easterly direction to County Road No. 4037; thence on County Road No. 4037 in a northerly direction to County Roads Nos. 4026 and 4004 (these are identical roads but carry two county designations); thence on County Roads Nos. 4026 and 4004 in a northeasterly direction to Highway No. 395 and No. 6; thence on Highway No. 395 and No. 6 in a southerly direction to Lone Pine and the Dow Villa Motel and Hotel.

Applicant is authorized to turn his motor vehicles at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, or in accordance with local traffic rules.

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