

ORIGINAL

Decision No. 69812

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of RAY E. EVANS and RUTH O. EVANS,
doing business as TRAMWAY TRANS-
PORTATION AND TOURS, for a Certi-
ficate of Public Convenience and
Necessity.

)
) Application No. 47352
) (Filed February 1, 1965)
) (Amendment Filed June 11, 1965)
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)
)

Leon W. Rosenberg, for applicants.
John L. Hughes, for Tanner Motor Tours and
O. D. Richardson, for Palm Springs
Transportation System, protestants.
J. M. McFadden and John A. Rehfuss, for City
of Palm Springs, interested parties.
Fred G. Ballenger, for the Commission staff.

O P I N I O N

A public hearing on the above-entitled application was held before Examiner Rogers in Palm Springs on June 21, 1965, and the matter was submitted subject to the filing of additional exhibits. The exhibits have been filed and the matter is ready for decision.

By the application as amended, Ray E. Evans and Ruth O. Evans, doing business as Tramway Transportation and Tours (applicants), request a certificate of public convenience and necessity as a passenger stage corporation authorizing them to conduct five tours, each commencing in the City of Palm Springs (City) in Riverside County. Descriptions of the proposed tours, the minimum number of passengers and the per passenger rates for each tour are as follows:

Tour 1

A one hour tour in the general Palm Springs area from any point of pickup in the City, thence proceeding in the most direct route to the intersection of Palm Canyon Drive and West Stevens Road, thence on Stevens Road to Rose Avenue, thence to Leisure and Crescent Drive, south on North Patancio, east on Alejo Road, to Palm Canyon Drive; south on Palm Canyon Drive to Murray Canyon Drive, east to Camino Real, north to East Palm Canyon, thence East Palm Canyon to El Cielo Road, north to Tahquitz-McCallum Way, thence west to Palm Canyon Drive and return to point of origin. On this tour, the minimum number of persons is two, and the rate per person is \$3.

Tour 2

Tour 1 to the intersection of Camino Real and East Palm Canyon Drive (State Highway 111), thence easterly on State Highway 111 to junction of 38th Avenue, aka. Wonder Palms Road, thence easterly to Tamarisk Country Club, thence southerly on Thompson's Road to 40th Avenue, thence westerly on State Highway 111 to junction of Date Palm Road, thence northerly on Date Palm Road to Ramon Road, thence westerly on Ramon Road to El Cielo Road, thence northerly on El Cielo Road to Tahquitz-McCallum Way, thence westerly to point of origin. On this tour, the minimum number of persons is three, and the rate per person is \$4.00.

Tour 3

Tour 2 to the intersection of Country Club Drive and State Highway 111, thence easterly on State Highway 111, to Shields Date Farm, thence return westerly on State Highway 111 to the intersection of Country Club Drive, thence return per Tour 2. On

this tour, the minimum number of persons is four, and the rate per person is \$4.50.

Tour 4

From any point in the City of Palm Springs, thence to State Highway 111, north to junction of U. S. Highway 60-70-99, thence westerly to the junction of Banning-Idyllwild Highway (Forestry Road R-1) then southerly through Idyllwild to the junction of State Highway 74, thence easterly and northerly to the junction of State Highway 111, thence west and northwest to point of termination in the City.

When requested by tour passengers, a reverse of the route will be made. On this tour, the minimum number of persons is four, and the rate per person is \$6.00.

Tour 5

From point of pickup in the City, thence via State Highway 111 to junction of private road (owned by Mount San Jacinto Winter Park Authority, an agency of the State of California), thence westerly to the Valley Station of the Palm Springs Aerial Tramway (tramway), then return over the above outlined route. On this tour, the minimum number of persons is two, and the rate per person is \$2.50.

Tours 1 and 5 are entirely in the City. The other three extend outside the City into unincorporated territory or other municipalities.

It is applicants' intention that applicant, Ray E. Evans, will act as one of the drivers and that another driver will be on call if required. Ordinarily, applicants will require a minimum of four hours notice for service.

Applicants' home is in the City. Operations will be conducted from their home.

Applicants have a 1962 six-passenger Ford station wagon and a 1965 eight-passenger Chevrolet Carryall. This latter vehicle is the largest vehicle applicants propose to use. Expansion to more than two vehicles presently is not contemplated by applicants.

The applicants' total assets were valued by them at \$17,097 on June 28, 1965, and their total liabilities then amounted to \$3,918, including an indebtedness of \$3,018 on the Chevrolet Carryall.

The applicants alleged that they have been operating a tour in the City and trips between points in the City and the tramway, and that numerous passengers have indicated an interest in the tours described above.

Tanner Motor Tours, Ltd. appeared as a protestant. It presented evidence that, pursuant to authority from this Commission, it operates its sightseeing tours originating in the City to the Smoke Tree Ranch, the tramway and the date gardens and guest ranches near Indio. Its rates and minimum number of passengers differ from those proposed by applicants (Exhibit 5). It has the equipment, finances and experience necessary to conduct the tours. Its revenues from such operations allegedly are not sufficient to warrant additional competition. This protestant's gross revenues from such sightseeing operations for the 13-month period including May 1964 and May 1965 were \$8,121 (Exhibit 4).

The City has granted intracity bus and taxicab franchises to a new company known as Palm Springs Transportation System which has inaugurated or is in the process of inaugurating local passenger stage service in the City and taxicab service between points

in the City.

Findings

On the evidence of record the Commission finds that:

1. The applicants are operating a bus service in the City of Palm Springs, Riverside County, California. Their existing operations include local sightseeing trips and service to and from the tramway. They have one 1962 six-passenger Ford station wagon and a 1965 eight-passenger Chevrolet Carryall. These vehicles are the largest they propose to use in any operation under authority granted by this Commission and applicants intend to limit their operations to two vehicles. The driving is done by Ray E. Evans, one of the applicants. Ray E. Evans will continue to drive whichever vehicle is required except that if two vehicles are required at one time applicants have available a driver on call who will operate one of the vehicles. Applicants will require four hours advance notice for service but will respond as soon as a vehicle is available. On June 28, 1965, applicants had a net worth of approximately \$13,000. Their finances, equipment and personnel are sufficient to enable them to render the proposed service for a reasonable period of time.

2. The applicants propose to render service via five routes. Two routes, namely the "in city" sightseeing operation (Tour 1) and the "tramway" service (Tour 5) will be entirely in the City. The remaining three proposed tours are outside the City's limits.

3. Tanner Motor Tours, Ltd., is authorized to conduct two tours originating in the City which are similar to two of the tours proposed by applicants but at different fares and via different

routes and with different minimum passenger requirements. The total revenues realized by this carrier from its sightseeing operations in the area proposed to be served by applicants for the sightseeing season 1964-1965, was \$8,121.

4. Palm Springs Transportation System has been authorized by the City to provide taxicab service and bus transportation service in the City including service to and from the tramway. No service had been inaugurated by this company at the time of the hearings herein.

5. Public convenience and necessity require that the applicants provide service as a passenger stage corporation in and around the City as proposed via all tours listed herein.

Conclusion

The Commission concludes that the application should be granted.

Ray E. Evans and Ruth O. Evans are 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Ray E. Evans and Ruth O. Evans authorizing them to operate as a passenger stage corporation as defined in Section 226 of the Public Utilities Code between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules of the California Highway Patrol, the 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 safety rules, or the provisions of General Orders Nos. 98 or 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, applicants shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.

- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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 twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of OCTOBER, 1965.

Frederick R. Holmberg
President
George H. Hoover
Augusta
William A. Bennett

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A

RAY E. EVANS and RUTH C. EVANS
doing business as
TRAMWAY TRANSPORTATION AND TOURS

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Issued under authority of Decision No. 69812
dated October 19, 1965, of the Public Utilities Commission
of the State of California, in Application No. 47352.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS

Ray E. Evans and Ruth O. Evans, doing business as Tramway Transportation and Tours, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct a sightseeing service for the transportation of passengers between points and places in the City of Palm Springs, on the one hand, and points of interest in Riverside County, on the other hand, over and along the routes hereinafter described, subject to the following conditions and restrictions:

- (a) Motor vehicles may be turned at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections in accordance with local traffic regulations.
- (b) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- (c) All service herein authorized shall be limited to the transportation of round-trip passengers only.
- (d) All service shall be conducted with vehicles not exceeding seven-passenger capacity, exclusive of driver.
- (e) Passengers shall not be picked up or discharged, except within the corporate limits of the City of Palm Springs. This restriction shall not prevent stopovers for the purpose of permitting sightseeing passengers to visit various points of interest along the routes.

Issued by California Public Utilities Commission.

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 TRAMWAY TRANSPORTATION AND TOURS

SECTION 1. (Continued)

- (f) Service may be operated on an "on-call" basis, subject to the minimum number of passengers shown below:

Tour No. 1 - two passengers
Tour No. 2 - three passengers
Tour No. 3 - four passengers
Tour No. 4 - four passengers
Tour No. 5 - two passengers

Tariffs and timetables of applicant shall show the conditions under which such "on-call" service will be rendered.

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 doing business as
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SECTION 2. ROUTE DESCRIPTIONS

Subject to the authority of this Commission to change or modify such at any time, Ray E. Evans and Ruth O. Evans, doing business as Tramway Transportation and Tours, shall conduct passenger stage operations over and along the following described routes:

Tour No. 1

Commencing at any point in the City of Palm Springs, thence via the most direct and appropriate route to the intersection of Palm Canyon Drive and West Stevens Road, thence via West Stevens Road, Rose Avenue, Crescent Drive, North Patancio Road, West Alejo Road, South Palm Canyon Drive, Murray Canyon Drive, Camino Real, East Palm Canyon, South El Cielo Road, East Tahquitz-McCallum Way, and Palm Canyon Drive to point of origin.

Tour No. 2

Commencing at any point in the City of Palm Springs, thence via Tour No. 1 route to the intersection of Camino Real and East Palm Canyon Drive (State Highway 111), thence via State Highway 111 and 38th Avenue, also known as Wonder Palms Road, to Tamarisk Country Club, thence via Thompson's Road, 40th Avenue, State Highway 111, Date Palm Road, Ramon Road, South El Cielo Road, East Tahquitz-McCallum Way, and Palm Canyon Drive to point of origin.

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SECTION 2. ROUTE DESCRIPTIONS (Continued)

Tour No. 3

Commencing at any point in the City of Palm Springs, thence via Tour No. 2 route to the intersection of 40th Avenue and State Highway 111, thence via State Highway 111 to Shields Date Farm. Return via State Highway 111 to the intersection of 40th Avenue, thence via Tour No. 2 route to point of origin.

Tour No. 4

Commencing at any point in the City of Palm Springs, thence via the most direct and appropriate route to State Highway 111, thence via State Highway 111, U. S. Highway 60-70-99, Banning-Idyllwild Highway (Forestry Road R-1), thence southerly through Idyllwild to the junction of State Highway 74, thence via State Highway 74 and State Highway 111 to point of origin.

Tour No. 5

Commencing at any point in the City of Palm Springs, thence via the most direct and appropriate route to State Highway 111, thence via State Highway 111 to junction of private road (owned by Mount San Jacinto Winter Park Authority, an agency of the State of California), thence westerly to the Valley Station of the Palm Springs Aerial Tramway.

End of Appendix A

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