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ORIGINAL

Decision No. 11673-

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
 E. C. COATS for certificate of public )  
 convenience and necessity to operate :  
 freight service between Marysville, ) Application No. 8541  
 Yuba County and Downieville, Sierra )  
 County. )

Ray Manwell for Applicant

W. E. Wright for Eureka Express Company,  
Protestant.

W. P. Rich for Pauly Brothers, Protestants.

BY THE COMMISSION:

O P I N I O N

The applicant herein seeks a certificate of public convenience and necessity to operate an automobile freight line daily between Marysville in Yuba County and Downieville in Sierra County, via Browns Valley, Dobbins, Bullards Bar, Camptonville and Goodyears Bar. At the hearing held before Examiner Eddy at Marysville on January 19th, 1923, request was made to amend the application so as to provide for service only between May 1st and November 1st.

The applicant owns eight trucks and has been operating over this route on a schedule more or less regular for the past three years without having secured from the Commission a certificate of public convenience and necessity as required by the law. During the season of 1922 he began operation about

May 1st and averaged three trips a week.

The application, therefore, is really a proceeding to put the stamp of legality on what has heretofore been an unlawful operation. This unauthorized service for so long a period is in and of itself a sufficient justification for denying to the applicant the desired certificate, were it not that the records show that there is a demand for a service of that character which the applicant is in a position to supply. No other truck line operates between Marysville and Downieville and the condition of the records and needs of the communities are such as not to permit or require operation during the winter season.

Protests were filed by Pauly Brothers, who operate a stage line between Marysville and Camptonville, and by Henry German, who operates a line between Nevada City and Downieville via Camptonville. These two stage lines are equipped to and now handle small packages between Marysville and Downieville but the operators thereof recognize the necessity also of a truck line that will transport only bulky and heavy freight. Applicant testified that while he did not care to carry small packages that would bring him in competition with the existing stage lines or to handle shipments from one consignor to one consignee weighing less than 500 pounds, he felt that he should be permitted to handle smaller packages as an accommodation to his patrons and in case of an emergency. After an informal conference between the parties in interest it was agreed that the situation could be taken care of by recognizing the proposed service as an exclusive freight service and fixing the minimum charges accordingly, regardless of the weight of the article to be transported. In other words, in view of the expressed desire and intention of the applicant to transport only

heavy and bulky freight, leaving the handling of smaller packages to the existing stage lines, it was felt that the public could be better served were the applicant's minimum charge made sufficiently high to discourage the sending of small packages via that line rather than in fixing a high minimum weight for the package itself. The fixation of this minimum charge was left to the discretion of the Commission.

It is apparent that there is a real public need in the territory involved for such a service as the applicant now proposes to render and the desired certificate will be granted, subject, however, to the express condition that the minimum charge on any single package weighing 200 pounds or less from one consignor to one consignee shall be the rate for a shipment weighing 200 pounds between the points involved. The minimum charge therefore under the scale of rates submitted with the application would be between Marysville and Camptonville - \$1.50 and between Marysville and Downieville - \$2.00.

An order will be entered accordingly.

#### ORDER

A public hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require the operation by E. C. Coats of an automobile stage line as a common carrier of freight between Marysville and Downieville, California, serving the intermediate points of Browns Valley, Dobbins, Bullards Bar, Camptonville and Goodyears Bar, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the period May 1st to November 1st of each year be, and the same hereby is granted, subject to the following conditions:

1. That applicant shall handle no single shipment from one consignor to one consignee weighing 200 pounds or less except at the minimum rate provided therefor, which shall be a rate of not less than \$1.50 between Marysville and Camptonville and \$2.00 between Marysville and Downieville, unless such rates shall be subsequently changed or altered through written authorization of the Railroad Commission.

2. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed forty (40) days from date hereof, such tariff of rates and time schedules to be identical with those as filed with the application herein as Exhibits "A" and "B"; and shall commence operation of the service herein authorized within a period of not to exceed one hundred and twenty (120) days from date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract of agreement on a basis satisfactory to the Railroad Commission.

✓ Dated at San Francisco, California, this 6<sup>th</sup>  
February  
day of January, 1923.

C. Searcy

David M. Masten

J. H. Whitting  
Commissioners