

Decision No. 11582

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of Milton Bailey for certificate
of public convenience and neces-
sity to operate passenger and
freight service between San Diego
and Palomar Mountain via Ramona
and East Grade up Palomar Mountain.)

APPLICATION NO. 11443.

ORIGINAL

C. C. Pease, for Applicant.

H. J. Bischoff, for Escondido Truck Line
and Palomar Mountain Truck Line, Protestants.

BY THE COMMISSION:

O P I N I O N

Milton Bailey has made application to the Railroad Commission for a certificate of public convenience and necessity to operate passenger, freight and express service between San Diego and Palomar Mountain via Ramona and East Grade up Palomar Mountain.

A public hearing herein was conducted by Examiner Williams at San Diego.

Applicant proposes to establish a service for the transportation of passengers, freight and express between San Diego and Palomar Postoffice by way of El Cajon, Lakeside, Santa Ysabel and Morettis, serving no points between San Diego and Morettis,

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but serving points west and north of Morettis as far as Palomar Postoffice. The service is to be conducted weekly, the passenger vehicles leaving San Diego on Saturday afternoon at one o'clock and reaching Palomar Postoffice at five, returning Sunday at 2:00 p. m. and arriving at San Diego at 6:00; the freight service to observe practically the same schedule, with a slight deviation as to time of arrival and departure. Applicant proposes such additional schedules as may be necessary. The service proposed is strictly seasonal, running from May 15 to September 15 of each year.

Applicant has large property interests on Palomar Mountain, including camp sites and a hotel, and has been conducting somewhat regular service for the transportation of passengers and freight to points between Warner's Dam (also known as Henshaw Dam) and Palomar Postoffice. He testified that the hotel owned by him and his associates at Palomar Mountain Lodge operates a truck which transports 5 or 6 tons of freight a week for the company's store and hotel, and that it is the desire of the company to discontinue this operation and devote its energies to the hotel and camp-site business.

Applicant testified that he wished to take over the operation conducted by the hotel and camp-site company in its own behalf, and operate the service under the authority of this Commission. He has been managing the operation and testified that there was a constant demand upon him for a large amount of traffic, both passenger and freight, to Warner's Dam and points between Warner's Dam and Palomar Postoffice. He further testified that vegetables and produce are shipped to the mountain

resorts from Ramona and other points between San Diego and Moret-
tis, and that he desired the privilege of carrying such shipments.

Applicant proposes, as equipment for the service, one
2-ton truck and a 7-passenger Cadillac touring car, and offered
to provide any additional equipment that might be required. He
testified that during three years of operation by the company
there had been transported an average of about 12 passengers in
each direction on each of three weekly trips.

Applicant was supported in his application by the testi-
mony of Louis Salmons, a rancher, who proposes to ship cream,
livestock, apples and other products to San Diego, which he
testified must now be transported by delivery to another carrier
at Warner's Dam or Santa Ysabel. This witness further testified
that he had not seen the Palomar Mountain Truck Line east of Pal-
omar Postoffice more than three or four times in several years,
and that he was unable to procure shipments over it except by re-
ceiving them at Palomar Camp, six miles east of his ranch.

Kenneth Beach, a truck driver employed by the hotel com-
pany, testified that the truck averaged about 1½ tons per trip
between San Diego and the resorts. There is very little return
movement at present.

Charles C. Price and Francis M. Holland, owning cottages
at Palomar resorts, testified that the service proposed by appli-
cant was needed for the transportation of furniture, trunks and
subsistence between San Diego and the resorts.

The granting of the application was protested by Webb
Bros., operating the Escondido Truck Line between San Diego and
Escondido, with daily service, and also the Palomar Mountain
Truck Line, operating from Escondido to Palomar Postoffice via

Valley Center and Rincon. Passenger service is maintained by Pickwick Stages to Warner's Hot Springs via Morettis, but a communication from Mr. Warren E. Libby, secretary of Pickwick Stages, Inc., stated that no protest would be made to the proposed operation as restricted.

It was the testimony of Mr. Webb that the operation of the Palomar Mountain Truck Line from Escondido to Palomar Postoffice had never been conducted by them over what is called the East Grade since acquiring the line from Waring & Linthicum in 1923 (Decision No. 12342 on Application No. 9182), and that all their operations have been confined to the west grade and terminated at Palomar Postoffice. The road to the mountain branches east at Rincon by way of Warner's Dam, and also branches west via Nigger Canyon Grade. According to the testimony of Mr. Webb, no service has been conducted by the Palomar Mountain Truck Line over any of the route east of Rincon and Palomar Postoffice, and it is this portion that applicant proposes to serve, as well as the postoffice terminus. Mr. Webb stated that it was their intention to transfer operation so that the trucks would journey east to Warner's Dam and thence west over a new road to Palomar Postoffice, returning by the west grade, and he expressed the belief that they had a right to operate over either road at any time, at their option.

The record seems clear that protestant Palomar Mountain Truck Line has provided service over the west grade to Palomar Postoffice since 1923, twice weekly or oftener, in season, and that the service has been efficient. It seems equally clear that service has not been given by this protestant to the ter-

ritory between Warner's Dam and Palomar Postoffice, and that for this reason shipments have terminated at Palomar Postoffice and consignees have been required to transport them eastwardly as best they could. We have examined the original certificate granted to Waring & Linthicum by Decision No. 10548 on Application No. 7824 and find that this freight operation was authorized to traverse the road westwardly from Rincon over the west grade to Palomar Postoffice, returning by way of Warner's Dam and Amago. It appears from Mr. Webb's statement that no such operation has been conducted, his explanation being that heretofore the west grade has been better adapted to operation of the service than the east grade, but that the east grade will now be more advantageous because of a reduction in the gradient as a result of the construction of a new road. It further appears that during all this time, when it was incumbent upon protestant to provide service to points between Palomar Postoffice and Warner's Dam, no such service has been maintained by it, and that what service has been given has been provided by the company of which applicant and his father are the principal owners. We cannot find that the record justifies opposition on the part of this protestant to the establishment of the service proposed by applicant. Protestant has not accepted or performed a plain duty imposed upon it by Decision No. 10548 above referred to, and hence may not now interpose objection to the establishment of another service. All of the witnesses appearing for applicant testified to the satisfactory character of the service previously given by him. Applicant explained that the service had been maintained because there was no other way to provide movements between San Diego and the

Palomar Mountain resorts, and that when advised that a certificate for such service was necessary, he presented the instant application to the Commission. We believe the applicant has shown affirmatively a public need for the service proposed by him, for the benefit of various resorts inhabited in season by several hundred persons, and that a certificate for the operation should be granted. An order will be entered accordingly.

O R D E R

Milton Bailey having made application to the Railroad Commission for a certificate of public convenience and necessity to operate passenger, freight and express service between San Diego and Palomar Mountain via Ramona and East Grade up Palomar Mountain, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the establishment and operation of a service as proposed by applicant, for the transportation of passengers, freight and express between San Diego and Palomar Postoffice via El Cajon, Ramona, Santa Ysabel and Morettis, provided, however, that no local service shall be given except from points beyond Morettis and Palomar Postoffice, except that passengers and property originating in or destined to such points may be received and transported from any point on the route, over and along the following route:

Via El Cajon, Ramona, Santa Ysabel, Morettis,
Warner's Dam and Cedar Crest; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

- I. Applicant shall file with this Commission, within twenty (20) days from date hereof, his written acceptance of the certificate herein granted; shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service hereby authorized within a period of not to exceed thirty (30) days from date hereof.
- II. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- III. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 26th day of April 1926.

H. B. Brown

C. C. Seaver

Leon Whitell

COMMISSIONERS.