

Decision No. 17638

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of E. C. CRAIG for certificate of)
public convenience and necessity)
to operate passenger, freight, ex-)
press service between Los Olivos)
and Gaviota.)

APPLICATION NO. 13063.

J. F. Frick, for Applicant.

Warren E. Libby, for Pickwick Stages Sys-
tem, Protestant.

S. E. Lyons, for Soren Sorenson, Protes-
tant.

BY THE COMMISSION:

O P I N I O N

E. C. Craig has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of passenger, freight and express service between Los Olivos and Gaviota and intermediate points.

A public hearing herein was conducted by Examiner Williams at Santa Ynez.

Applicant seeks permission to transport passengers, freight and express matter between the termini and intermediates named in his application, at the rates and fares shown in his Exhibit "A" attached thereto. He proposes to use in the service one 6-cylinder delivery car, capable of transporting $1\frac{1}{2}$ tons of freight and having accommodations for two passengers. Appli-

cant has obtained from the U. S. Government a contract to transport mail between Gaviota and Los Olivos and intermediate points, including Las Cruces, Buellton, Solvang, Santa Ynez and Ballard, the contract becoming effective July 1, 1926, and continuing for four years.

Applicant's mail schedule requires him to make a trip between Los Olivos and Gaviota each morning, with a return trip each afternoon. He proposes to transport persons and property on the schedule required by the government for the transportation of mail. His deliveries are at postoffices only. When his mail contract became effective, applicant immediately began transporting passengers and freight between Gaviota and other points, without certificate from this Commission, and continued to conduct this service until October 20, when he desisted. Applicant testified that he desisted because this Commission advised him that such service without certificate was illegal, but he excused himself on the ground that the former holder of the mail contract, Soren Sorenson, protestant herein, had abandoned all service after his mail contract expired.

It appears that on June 21, 1926, by Decision No. 16972 on Application No. 9610, protestant Sorenson was granted permission to discontinue service between Gaviota and Los Olivos and intermediate points, and at that time he acquired the freight and express service formerly conducted under authority of this Commission by J. L. Edelblute between Santa Barbara and Santa Ynez via Gaviota. This service has been maintained for a number of years and serves all the points east of Buellton

which applicant now asks authority to serve. It appears, therefore, that applicant is seeking to perform the same service between Gaviota and Los Olivos that protestant Sorenson performed during the time his mail contract was in effect and when he was a competitor of the Edelblute line.

Applicant testified that the volume of express handled by him between July 1 and October 20, 1926, averaged about 50 pounds daily; that there is a daily freight delivery at Gaviota for points east, both from the north and the south, but that the volume of this freight is not large; and further, that the number of passengers transported averaged one in every two weeks.

P. B. Montanero, a butcher of Los Olivos, testified that he had used applicant's service for the transportation of fresh meats to many of the points on his route and desired the service restored, as it was preferable to parcel post service, which is also available to the witness.

Frank Mattei, proprietor of Mattei's Tavern at Los Olivos, testified that he had had trouble in obtaining fish and other perishable foods daily from Santa Barbara and other points, and that the operation of a daily service would not only help him, but would be a matter of general convenience to Santa Ynez Valley points. This witness testified that he had signed an affidavit stating that he believed the Sorenson service to be satisfactory, but he reiterated his own need for daily service, particularly on fish. No other testimony was introduced by applicant.

Applicant stipulated with protestant Pickwick Stages System that he would not transport any passengers between Gaviota and Buellton, and would limit his passenger service to the

stage actually in use for the transportation of mail. Upon this stipulation the protest of the Pickwick Stages System was withdrawn. This protestant stated that it had no objection to the freight service proposed by applicant.

Soren Sorenson, operating what is known as the Edelblute line under authority of this Commission, protested the granting of freight rights on the ground that he is now maintaining three schedules weekly between Gaviota and Los Olivos, his present schedules calling for Tuesdays, Wednesdays and Fridays. This is a part of his service between Santa Barbara and Santa Ynez Valley points, and he testified that the entire business handled by him, including shipments from Santa Barbara, does not exceed two tons per week. Although protestant's schedule calls for leaving Solvang at 6:45 a. m. daily, he testified that he never leaves until noon, as the earlier trip would be to no purpose, there being no train connection until almost noon.

In rebuttal, applicant testified that he himself drives the mail stage the greater part of the time and that he had not seen Sorenson's track on the road on Wednesdays.

A review of the record herein justifies, we believe, the granting of the application for the transportation of passengers only. Under the stipulation entered into by applicant, he would only serve points east of Buellton, and it was his testimony that he had never at any time had passengers for points included in the stipulation. It will be the only service available to the public making direct train connections. As to applicant's desire to transport freight and ex-

press matter on his mail schedule, we do not think the record affirmatively shows need justifying division of this field between two carriers. The proof seems clear that with an average of 50 pounds of express daily, and not to exceed two tons of freight per week between termini, there is not enough business to sustain operation of two services. The service maintained by protestant Sorenson is not well patronized and the volume of freight and express transported has been shrinking, according to protestant's testimony; but if, as witnesses indicated, his schedules are not satisfactory, proper complaint made to this Commission will cause their correction. In fact, Sorenson stated that he is now revising his schedules to place them on a more practical basis.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the establishment and operation by applicant of automobile service for the transportation of passengers only between the points named in his application, except that he may not transport passengers between Gaviota and Buellton, as stipulated with protestant Pickwick Stages System; and we further find as a fact that public convenience and necessity have not been shown to require the operation by applicant of freight and express service as proposed herein. An order will be entered accordingly.

O R D E R

E. C. Craig having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of passenger, freight and express

service between Los Olivos and Gaviota and intermediate points, 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 by applicant E. C. Craig of automobile service for the transportation of passengers only between Gaviota and Los Olivos and intermediate points, provided, however, that applicant may not transport any passengers between Gaviota and Buellton, inclusive; and provided further, that passengers may be transported between points herein specified only on the stage or vehicle actually and necessarily used in the transportation, on schedule, of United States mail, and that when applicant ceases to operate under any contract for the transportation of United States mail, this certificate shall become null and void. - over and along the following route:

By State highway between Gaviota and Buellton, thence by county road to Solvang, Santa Ynez, Ballard and Los Olivos; and

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

- I. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
- II. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from date hereof.

III. 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.

IV. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same is hereby denied.

For all purposes except as hereinbefore stated, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 18th
day of November 1926.

H. R. Brundage

C. L. Senner

Emmett

Thos. S. Kottel
COMMISSIONERS.