

Decision No. 18381

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
E. F. GARDNER operating under the name)
of Monticello Stage Co. for certificate)
of public convenience and necessity to) Application No. 13262
operate automobile passenger, freight)
and baggage service between Monticello)
and Winters and intermediate points.)

Sanborn, Roehl & Smith, for Applicant.

Claude Rohwer, for V. V. Anderson, Protestant.

BY THE COMMISSION:

O P I N I O N

E. F. GARDNER, doing business under the fictitious name of Monticello Stage Company, has petitioned the Railroad Commission, in accordance with his amended application, for an order declaring that public convenience and necessity require the operation by him of an automobile stage and truck line as a common carrier of passengers, freight, express and baggage between Monticello and Winters, serving as intermediate points Camp North, Ellston, County Line and Recreation Beach.

A public hearing on said application was conducted before Examiner Satterwhite at Winters, the matter was submitted and is now ready for decision.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibits "A" and "B" attached to said application, and to use the equipment described in Exhibit "C" attached thereto.

V. V. Anderson protested the granting of said application.

Applicant relies, as a justification for his proposed service, upon the ground that for a long period of time prior to the filing of the instant application, V. V. Anderson, the present authorized carrier of passengers and freight between the points proposed to be served, had failed and neglected to maintain a regular and dependable service.

Monticello has a population of about 300 people, and has considerably developed in the past few years by reason of the fact that fruit growing has been largely substituted in Berryessa Valley for grain farming. New orchards, amounting to over 1,000 acres, are coming into bearing quite rapidly each year, necessitating additional labor to prune, cultivate and harvest the fruit crops. This new agricultural development has increased considerably both passenger travel and freight tonnage.

Applicant offered evidence to the effect that he has ample financial resources to successfully and adequately operate the proposed service, and that he is an experienced operator and has been for several years past the authorized carrier of passengers and freight between Monticello and Napa.

The record shows, without any material contradiction, that V. V. Anderson has failed for more than one year last past to operate and maintain a regular and dependable service between Monticello and Winters. The evidence shows that there has been much dissatisfaction among the residents of Monticello with the unreliable operations of Anderson, and many complaints have been made by passengers who have had occasion to travel between Winters and Monticello.

The record shows that Anderson, in accordance with his present time table No. 6 on file with this Commission, effective November 16, 1926, is scheduled to leave Monticello daily, except Saturday and Sunday, at 7:30 a.m., arriving at Winters at 8:20 a.m., leaving Winters at 10:15 a.m. and arriving at Monticello at 11:05 a.m. His previously cancelled time table No. 5 shows 7:30 a.m. as the same leaving time at Monticello, but 11:20 a.m. as a later leaving time from Winters.

Applicant offered considerable oral and documentary evidence, showing clearly and conclusively that these time schedules have been continuously and persistently ignored by Anderson. We deem it unnecessary to review in detail numerous trips that Anderson made to Sacramento from Winters, carrying, on various occasions, both passengers and freight, but a study of Applicant's Exhibit No. 1, being a partial check of Anderson's operations, shows that for many months, from January to July, inclusive, in 1926, upon his arrival in Winters from Monticello, Anderson continued on to Sacramento, returning to Winters so late that many passengers throughout this period were frequently compelled to wait from three to six hours or more, to be transported to Monticello. It appears that not only during this period in 1926, but also on frequent occasions in 1925, complaints were constantly made by delayed passengers on account of the failure of Anderson's stage to depart on schedule time. The record shows that for one week in October, 1926, Anderson had not made a single trip between Monticello and Winters, and no explanation appears in the record for such failure of service.

Applicant also offered evidence to the effect that on frequent occasions Anderson neglected to depart from Monticello on schedule time, and also followed the practice of driving off his route and around and about Monticello to pick up a prospective passenger or some freight, thereby interrupting or causing long and frequent delays in his scheduled departure. The evidence further shows that Anderson, for many months before the commencement of this proceeding, failed to maintain his equipment in a fit and proper condition, and has permitted this equipment to become run down, dilapidated and unsafe.

V. V. Anderson, the protestant, testifying in his own behalf, admitted many of the failures to maintain his time schedule as shown by applicant, but denied that such failures were as numerous as shown by Applicant's Exhibit No. 1, or as testified to by witnesses called by applicant. Anderson testified further that poor road conditions interfered from time to time in the operation of his service, particularly in winter time; that his equipment consisted of a six-cylinder Reo under-slung bus chassis with a Ford body, which was not at all times suitable or adapted to the road conditions between Monticello and Winters. It appears that he operated this bus for several years, and only replaced it with improved equipment after the commencement of the instant proceeding.

It also appears from examination of the files of this Commission that the service of Anderson for several years last past has been the subject of many informal complaints, indicating that he has frequently failed to maintain a reliable and dependable service; and as a result of such complaints, this Commission has in the past, through its auto stage department, requested Anderson to improve the unsatisfactory character of his operations, which according to the record in this case he has failed to do.

This Commission cannot see its way clear to countenance or tolerate continued and persistent failure to operate a regular and

dependable service as is shown by the record in this proceeding. It is the duty and obligation of auto stage and truck carriers, operating under certificates obtained from this Commission, to maintain regular and dependable service in accordance with their time schedules on file with this Commission, and delays in, or failures of service may be justified only when they are trivial or occasional or caused by facts and circumstances beyond the control of the carrier.

Although the passenger and freight traffic moving between Monticello and Winters is of such limited volume that one authorized carrier would be ample to take care of it, we are of the opinion, and hereby find as a fact, that the service of the present carrier, V. V. Anderson, has been unreliable, irregular and inadequate; that the public convenience and necessity require the proposed service of applicant; and that his application should be granted.

ORDER

A public hearing having been held in the above entitled proceeding, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by E. F. Gardner, operating under the name of Monticello Stage Company, of an automobile stage and truck line as a common carrier of passengers, freight, express and baggage between Monticello and Winters, serving as intermediate points Camp North, Ellston, County Line and Recreation Beach.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and the same is hereby granted to said E. F. GARDNER for the operation of the service above described, subject to the following conditions:

- 1.- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof.
- 2.- Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the 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 the 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 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 the date hereof.

Dated at San Francisco, California, this 18th day of May, 1927.

Edmund C. Carr
H. B. Condit
C. Seaver
Leon Whitell
Thos. S. Powell
Commissioners.

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