

Decision No. 22255

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
JOE DELLERA for certificate of public
convenience and necessity to op-
erate U. S. Mail, passenger, freight,
and express service as a common car-
rier, between Reno Junction, Vinton,
Loyalton, Sierraville, Sattley, Sierra
City and Downieville, California.

ORIGINAL

Application No. 16769.

Joe Dellera, in propria persona,
Frank Word, Protestant.

BY THE COMMISSION:

O P I N I O N

Joe Dellera has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile service as a common carrier of passengers, freight and express between Reno Junction and Downieville, serving Vinton, Loyalton, Sierraville, Sattley, Sierra City and all way-points.

Public hearings on this application were conducted before Examiner Satterwhite at Portola and Loyalton, the matter was submitted and is now ready for decision.

Applicant proposes to charge rates and to operate under a time schedule in accordance with Exhibits A and B, and to use the equipment described in Exhibit C.

Frank Word protested only the proposed additional passenger service over that portion of the proposed route between Reno Junction and Sattley.

Applicant is now and has been since July 1, 1930, the United States mail carrier between Reno Junction and Downieville, succeeding Frank Word, the protestant herein.

The evidence shows that the route of applicant traverses a farming section more or less sparsely settled and since applicant began his mail operations he has had many requests from farmers and merchants along the proposed route to haul for them supplies and merchandise of all kinds.

Loyalton is the largest community on the proposed route with a population of about 700, and is a branch terminal of the Western Pacific Railroad. A large lumber mill is operated at this point and considerable freight is shipped to this community from points both north and south. The other way-points desired to be served are buying places for the adjacent farming section, at which are located one or two general merchandise stores and garages. Applicant admitted that the local passenger travel is very limited and that the through passengers between Reno Junction and Downieville are very infrequent.

The record shows that Frank Word, protestant, operates an authorized passenger and freight service between Reno, Nevada, and Calpine, California, serving all intermediate points (excepting Sierra), sought to be served by applicant, and it appears he has always rendered a satisfactory service. Protestant introduced in evidence an exhibit showing his gross income during 1930 from January to September inclusive, which indicates that the total revenue for January was \$417.79 and that in September it had dropped to \$244.03.

The evidence shows, and applicant admitted, that there is no necessity for ^{two} stage lines to serve this intermediate territory, but desired to operate the passenger service in conjunction with his mail operations to meet the convenience of an occasional passenger who might be traveling to any point

along the route.

Applicant is compelled to operate under the terms of his mail contract throughout the entire year and during the winter months will use horse drawn vehicles instead of automobiles whenever weather conditions require.

We are of the opinion that the proposed freight service of the applicant should be authorized, but that his proposed passenger service should be denied, in so far as he proposes to render a local service between Reno Junction and Sattley and points intermediate thereto.

Joe Dellera is hereby placed upon notice that operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

Public hearings having been held in the above entitled proceeding, the matter having been duly 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 Joe Dellera of an automobile service as a common carrier of passengers and freight between Reno Junction and Downieville, and intermediate points, via Vinton, Loyalton, Sierraville, Sattley and Sierra City, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same is

hereby granted to Joe Dellera, subject to the following conditions:

1. That no passengers shall be transported between Reno Junction and Sattley and intermediate points, all inclusive.
2. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
3. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
4. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
5. 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.
6. 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 7th day of

January, 1931,

Cl. Sauer
Leon Whittell
W. H. Linn
M. B. Linn
Commissioners.