

Decision No. 11138

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application)
of W. K. Buck for certificate of)
public convenience and necessity) Application No. 8205
to operate a freight auto truck)
service between Niles and San)
Francisco.)

Jos. P. Fallon, for applicant.
H. A. Loveland, for F. J. Silva and
Pat Sylvestri, Protestants.
G. H. Baker, also appearing for Pat Sylvestri.

BY THE COMMISSION -

O P I N I O N

The applicant herein requests that the Railroad Commission make its order declaring that public convenience and necessity require the operation by applicant of an automobile freight service between Niles and San Francisco.

A public hearing was held at San Francisco before Examiner Geary on October 13, 1922, and the matter is now ready for opinion and order.

The petition sets forth that it is the desire of the applicant to transport only the tomatoes grown by Chinese gardeners in and around the town of Niles to the commission houses at Oakland and San Francisco, the rates to be 15 cents per box to Oakland and 20 cents per box to San Francisco and the service proposed is only to be conducted during the season when tomatoes are being harvested and shipped, which covers a period of approximately three months and would terminate for the current year about November 1st.

The applicant owns but one two-ton truck, which vehicle has been used heretofore between farms located in the delta regions along the Sacramento River, was transferred to the Niles territory upon the request of the Chinese farmers and has for some weeks past been employed in moving tomatoes. This service being without a certificate is in violation of the Statutes.

Testimony indicates that the certificate if issued would only be used during the next few weeks of the year 1922 and that service would be reestablished in 1923 when the tomatoes will be ready for shipment, provided the Chinese gardeners, who are now using the land as tenants, continue their activities and call upon this particular truck line for the service. It seems apparent that the line, if established by the granting of a certificate, would have only a temporary existence and be of no real public convenience and necessity.

There are now thirteen automobile freight lines operating in the Niles territory under certificates issued by this Commission and some of these companies appeared and protested against the granting of the certificate to this applicant, testifying that they were entirely competent to handle all of the tonnage offered by the farmers, including the tomatoes which this applicant desires to move.

The Commission in its decisions on applications of this nature has repeatedly held that where a satisfactory service is being rendered by authorized transportation companies over a specified route and where such certified operators were able to meet all of the demands of the public, that the existing companies would be protected in their operating rights as long as it was shown that the service was satisfactory and the rates reasonable. A mere desire to enter the transportation business as a common carrier is not a measure of public convenience and necessity and we are of the opinion that this applicant has

failed to make a satisfactory showing of public convenience and necessity and therefore conclude that the application should be denied.

ORDER

W. K. Buck having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation of an automobile freight line between Niles and San Francisco as a common carrier, and a public hearing having been held and the matter having been duly submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity do not require the establishment of an automobile freight line between Niles and San Francisco by the petitioner herein.

IT IS HEREBY ORDERED that this application be, and the same is hereby denied.

Dated at San Francisco, California, this 19th day of
October, 1922.

James Martin

Robert J. ...

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Commissioners.