

ORIGINAL

Decision No. 5720.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of GEORGE M. BRICE for certificate)
of public convenience and necessity)
to operate stage or truck service) Application No. 3446.
between Ferndale, California, and)
Eureka, California.)

A. W. Blackburn for Applicant.

J. J. Cairns for A. W. Way, Protestant.

BY THE COMMISSION

O P I N I O N

George M. Brice has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of a truck line for the transportation of freight as a common carrier between Eureka and Ferndale, in the County of Humboldt.

A public hearing was held at Eureka on May 24, 1918, before Examiner Encell, the matter was duly submitted and is now ready for decision.

Applicant proposes to operate freight truck service on a schedule of at least one round trip each week and to charge rates in accordance with a schedule filed as Exhibit "A" attached to the application in this proceeding.

Applicant proposes to use a five-ton capacity White Truck and has in reserve one 1½ ton capacity and one 3/4 ton capacity White truck to care for any excess business or to be used when the volume of freight will not justify the use of the larger equipment.

Applicant has for some years conducted a general drayage business with headquarters at Ferndale and now holds an operative right between Ferndale and the station of Fernbridge on the line of the Northwestern Pacific Railroad. He has been in the habit of making trips from Ferndale to Eureka and now desires to establish regular service as a common carrier instead of his former method of operating as a carrier under contract.

The application was opposed by A. W. Way who has been operating between Eureka and Ferndale for some three years as a common carrier and who was regularly operating in good faith on May 1, 1917, the date that was recognized by the legislature as that upon which operators having established routes were not required to secure certificate of public convenience and necessity from the Railroad Commission and permits from the governing bodies of the political subdivisions through which a route passed. The protestant, Way, has ample equipment of one ten-ton, two five-ton, one seven and one-half ton and one three-ton trucks. The testimony indicates that Mr. Way has regularly operated whenever service was required and that only on rare occasions when weather conditions made the roads impassible has the service been interrupted. Mr. Way testified that he is prepared to care for all the business now offering over the route between Ferndale and Eureka and is also prepared to care for any increase of business that may develop by purchasing additional equipment.

It appears that the business between Eureka and Ferndale is not of sufficient volume to justify the establishment of an additional line and there was no testimony to indicate that the protestant had not served the public demand for freight

transportation in a satisfactory manner. The applicant has hauled freight at intervals, whenever same offered and has naturally solicited return hauls and endeavored to use his equipment to its capacity whenever opportunity offered. He now desires to establish a regular service and accept all freight offering as a common carrier.

As the Commission has frequently stated in its decisions on proceedings involving certificates of public convenience and necessity, the desire of an applicant to enter the field as a common carrier cannot be taken as the measure of the public convenience and necessity and is not sufficient to justify an order authorizing the establishment of a competing line over territory already adequately and satisfactorily served by existing transportation companies. In this instance the record does not show any demand by the public for additional service between Ferndale and Eureka, nor is there any evidence indicating that the line operated by Mr. Way is not satisfactorily equipped to give a reliable service.

We are of the opinion and find as a fact that the public convenience and necessity do not require the establishment of an automobile truck service by George M. Brice as a common carrier of freight between Eureka and Ferndale.

ORDER

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and basing its order on the finding of fact as set forth in the preceding opinion,

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

Dated at San Francisco, California, this 26th day of August, 1918.

Edwin U. Edgerton
H. D. Loveland
Alex Gordon

Commissioners.