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Decision No. 7301

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
 C. L. SWETT for a certificate of )  
 public convenience and necessity :  
 to operate an auto stage passenger ) Application No. 5281  
 service between Tracy, Altamont, )  
 Byron, Antioch, Concord and )  
 Martinez and intermediate points. :

E. M. Otis for Applicant.  
 Jesse H. Steinhart for S.F. Sacramento RR Co.  
 Frank B. Austin for Southern Pacific Co.

BY THE COMMISSION.

O R D E R

O. L. Swett, the applicant herein, petitions the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers between Tracy-Martinez and intermediate points.

A public hearing was held by Examiner Geary at Martinez, Wednesday March 10, 1920, the matter was duly submitted and is now ready for decision.

The application alleges that the service rendered by the Southern Pacific Company, which serves practically all of the points covered by the proposed route is inadequate and does not meet the demands of the travelling public.

The schedule of rates to be established is not on a uniform basis, but averages about 4½ cents per mile. The proposed time schedule will be operated on two round trips daily. The equipment

has not been purchased, but will consist of automobiles carrying  
from 7 to 20 passengers;

Applicant testified himself, but other than stating that inquiries had been made presented no positive supporting reasons why the service should be established, advancing as his opinion that the service would be a convenience and was a necessity to the public; also, there was no necessity shown by the several other witnesses placed on the stand by applicant .

The Southern Pacific Company and the San Francisco, Sacramento Railroad Company, who are giving passenger train service within most of the territory covered by this application, appeared in opposition. Exhibits were introduced by the Southern Pacific Company giving the number of passengers handled within the territory Tracy to Martinez for the month of January, 1920, the daily average between all points being a fraction over fifteen. The San Francisco-Sacramento Railroad Company showed by an exhibit that for the year 1919 there was an average of but seven passengers per day between Concord and Pittsburg. Schedules of its passenger train service were also introduced.

The testimony of applicant was not persuasive and did not indicate that there was a public necessity or even a public convenience which would justify the granting of the application. The petitioner in this proceeding has not assumed the burden of proof required and has failed to show that there is any public necessity justifying the kind of service he proposed to establish. Further, the proceeding is entirely devoid of a showing that a proper service could be rendered.

After consideration of all the evidence in this proceeding we are of the opinion and find that there is no public convenience and necessity to justify the granting of this application and that the same should be denied.

O. L. Swett having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile passenger stage service between Tracy and Martinez and intermediate points, a public hearing having been held and the matter having been duly submitted and the Commission being fully advised,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the establishment of an automobile stage line as a common carrier of passengers between Tracy and Martinez via the route described by petitioner herein.

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

Dated at San Francisco, California, this 22<sup>nd</sup> day of March, 1920.

Erwin A. Edgerton  
H. D. Loveland  
Frank R. Colver  
H. R. Brundage

Commissioners.