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Decision No. 7414

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
 M. S. BITTENCURT for certificate of)
 public convenience and necessity to) Application No. 3631
 operate stage or truck service between)
 Eureka and Arcata.)

J. J. Cairns and F.L. Platt for Applicant,
 W. J. Cummings, for Northwestern Pacific
 Railway, Protestant.

BY THE COMMISSION.

ORDER

M. S. Bittencurt has petitioned 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 and express packages between Eureka and Arcata and intermediate points.

A public hearing on this application was conducted by Examiner Satterwhite at Eureka on March 23rd, 1920, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with the schedule marked Exhibit "A" and filed with said application and to operate on a time schedule of four round trips daily between Eureka and Arcata, using as equipment one 8-passenger Peerless automobile.

The Northwestern Pacific Railroad protested the granting of this petition. There are two other auto stage lines operating between Eureka and Arcata and three other auto stage lines operating between Eureka and Arcata to points farther north. At the hearing all of these auto stage lines, instead of protesting this application, indicated their desire that the proposed service be authorized for the chief reason that the applicant, M. S. Bittencourt, is the successor to Charles H. Stouder, who operated this service for about four years prior to December 19, 1917, when it was purchased by this applicant and during this whole period satisfactory service has been given to the public.

Several witnesses testified to the public necessity of this proposed service. The evidence shows that the applicant has built up an established business and now carries about 35 passengers daily. It was shown that many residents and farmers constantly use this line and that many school children are carried locally from Bay Side and Freshwater.

The Northwestern Pacific Railroad introduced evidence showing that they are giving a first class service between the points covered by applicant and are charging cheaper rates than are charged by the applicant. The protestant's line runs about a mile away from the proposed route and has a flag station at Bay Side, but no flag service at Indianola or Freshwater.

In spite of the facilities and cheaper rates afforded by the Railroad service, it appears that the applicant does a good business, and that the service is demanded by those who patronize his line.

After careful consideration of the evidence, we are of the opinion that the application should be granted.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by M. S. Bittencourt of an automobile stage service as a common carrier of passengers and express packages between Eureka and Arcata and intermediate points,

Provided, however, that the rights and privileges herein authorized, may not be transferred nor assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been procured.

IT IS HEREBY ORDERED that no vehicle may be operated under this certificate unless such vehicle is owned by applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 9th day of April, 1920.

E. O. Edgerton
J. D. ...
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COMMISSIONERS