

Decision No. 7556

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application)
of William E. Burnett for a cer-)
tificate of public convenience and)
necessity to operate an automobile)
service for the transportation of)
passengers between Tres Pinos and)
Idria.)

APPLICATION NO. 3989

Thomas E. O'Donnell for applicant.
George W. Jean for A. G. Fruits, protestant.

By the Commission -

ORDER

William E. Burnett by this application seeks a certificate of public convenience and necessity for the operation of an automobile stage service for the transportation of passengers between Tres Pinos and Idria.

A public hearing was held on the application before Examiner Geary at Gilroy, May 5, 1920, and the matter having been duly submitted is now ready for a decision.

The testimony of the applicant was to the effect that he was operating between Tres Pinos and Idria as a carrier of U. S. Mail under a contract which expires in July 1922 and desired in connection with the mail contract to also engage in the transportation of passengers. The equipment to be used will consist of one automobile with a seating capacity for five persons, which equipment applicant would increase to meet the requirements of the traveling public. The distance from Tres Pinos to Idria is sixty (60) miles, passing through a territory devoted to farming and stock raising. At the terminous of Idria there is located the new Idria Quicksilver Mining Company which, under normal

conditions, employs some four hundred men. A number of witnesses testified on behalf of applicant to the effect that the country was developing and that a competing stage line would be a convenience. Also that on certain occasions the regularly established line operated by A. G. Fruits had failed to make scheduled trips and on other occasions stages were crowded and unable to take all the passengers desiring to travel.

A. G. Fruits who has an established service, handling both freight and passengers between Tres Pinos and Idria and having tariffs and schedules on file with the Commission, protested the granting of the application. His testimony was to the effect that the present line was purchased from William E. Burnett, the applicant in this proceeding, in 1910, at which time the U. S. Mail contract was secured. The mail was carried by his line until the contract was transferred to the applicant in this proceeding in the year 1918. The line has been operated continuously for the past ten years. The service was first rendered by horse-drawn vehicles until 1916 when automobiles were substituted, the equipment now consisting of a number of machines, the total value being \$8,592.00. The passenger travel in the year 1918 average nine (9) per day. This was due to the large number of men employed at the quicksilver mine located at Idria and also by reason of the fact that the U. S. Government maintained a company of soldiers to protect the mines. During the current year up to date the average number of passengers carried has been from five to eight per day. This company also carries the express and handles considerable freight. The testimony of protestant was to the effect that if it were not for the express business the line would not be continued.

A number of witnesses supported the protestant in testifying that the service now being given was entirely satisfactory, that the stages operated on schedule time and provided accommo-

dations for all passengers under normal conditions. It was shown that upon the occasions when the Fruits Line failed to perform service the same was due to violent storms and high water or to the closing down of the quicksilver mines which made an unusual demand on the equipment. Further testimony was to the effect that special cars were operated whenever the traffic offered could not be handled on regular cars, also that during the winter months horses were provided to move the traffic between points where because of the storms automobiles could not be operated. Protestant filed as an exhibit a letter from the Superintendent of the mine at Idris, also a petition signed by sixty eight (68) persons recommending the service being given by Fruits. Signed petitions are of uncertain value in a proceeding of this kind as a general rule, but in connection with this petition a number of the signers appeared as witnesses.

The opposition to the granting of a certificate of public convenience and necessity to William E. Burnett is based upon the ground that there is no necessity for the operation of another automobile line and that A. G. Fruits adequately and efficiently meets all the requirements of the public. The Commission in reaching its conclusion keeps in mind the welfare of the community as well as the rights and prosperity of the existing carrier and when a satisfactory service is given the public, will not jeopardize the interests of the established line unless it is satisfactorily shown that there is a real public necessity for a second transportation service. The evidence introduced by this applicant fails to show that there is any public convenience and necessity for the proposed line.

After careful consideration of all the evidence, we are of the opinion and find as a fact that A. G. Fruits is rendering an adequate and satisfactory service and that there is no justification for the authorization of this proposed auto line.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by William E. Burnett of an automobile stage line as a common carrier of passengers between Tres Pinos and Idria.

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

Dated at San Francisco, California, this 18th day of May, 1920.

Edwin C. Ely
H. D. Loveland
John A. Holton
H. N. Brundage
Dwight Martin
COMMISSIONERS.