

ORIGINAL

Decision No. 7887

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application
of ORVILLE ELIAS SQUIER for cer-
tificate of public convenience and
necessity to operate passenger, freight,
express and baggage stage service be-
tween Williams, Colusa County and Bartlett
Springs, Lake County.

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) Application No. 5684.
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Courtney L. Moore for applicant.
Walter H. Linforth for Wm. Quigley,
pro testant.

BY THE COMMISSION:

O P I N I O N

Orville Elias Squier applies for certifi-
cate that public convenience and necessity require him to
operate automobile stage and freight line as a common carrier
of passengers, baggage, express and freight between Williams,
Colusa County, and Bartlett Springs in Lake County, a total
distance of about 45 miles over mountainous roads.

A public hearing upon the application
was held by Examiner Westover at Bartlett Springs.

In Mr. Squier's Application No. 4137, decided June

3, 1919, Decision No. 4365, the ground of the application was that the only stage service over the route in question was operated during the summer months only, while applicant proposed to operate a year round service. The application was denied for lack of testimony tending to show that public convenience and necessity required the winter service, while the testimony showed that the summer service given by Wm. Quigley, operating the "Williams and Bartlett Springs Stage Line" was entirely satisfactory. The present application is based upon the same ground that public convenience and necessity requires a winter service as well as a summer service.

Applicant at the hearing upon his present application produced the testimony of numerous ranchers living in the mountains along the route in question, in support of his application. Their testimony generally was to the effect that there was great need for frequent communication with Williams and other points in the Sacramento Valley, particularly for the purpose of getting in supplies, but it appeared that almost all of the supplies brought in during the winter months were brought in by parcel post and that practically all supplies could be packed to come within the 70-pound parcel post limit.

It appeared from the testimony that there was very little passenger patronage of a stage line during the winter although applicant has carried a few passengers in connection with his mail stage which he is operating under contract for four years beginning July 1, 1918.

Mr. Quigley, the protestant, has operated a passenger, express and freight service over the line for about 20 years, apparently giving satisfactory service at all times. For many years prior to July 1, 1918, he carried

the United States mail but was not awarded the contract July 1, 1918. Since the fall of 1918 the resort at Bartlett Springs, which has accommodations for about 500 guests, has been closed during the winter months and Mr. Quigley has been authorized by the Commission after informal investigation to suspend operations during the winter season.

At the commencement of the present hearing it was stipulated that Mr. Quigley's service during that part of the year in which he operates is satisfactory. It appears from his testimony that he does not wish to operate during the winter months but is willing that applicant should carry passengers, freight and express during that portion of the year when he does not operate. It also appeared from his testimony at the present and prior hearing that when the resort was in operation during the winter and he also carried the mail that his winter operations showed a loss of over \$100 per month. His records for winter operations during 1917-1918 when the resort was in operation at Bartlett Springs show that 17 passengers were carried in October, 1917, one in November, none in December, January or February, 1 in March, 1918, and 2 in April, 1918. His receipts from freight and passengers for November, 1917 amounted to \$60.75, December, \$36.45, January, \$7.00, February, \$16.50.

As to Mr. Squier's operations it appears from the testimony of W. R. Duncan who drove a car for him on the route from September, 1918, to January 1, 1920, except for a month and a half when he was ill, that he estimated an

average of three passengers per week during the winter season; that during November and December he averaged six a week, January and February one to two a week and during March and April four or five a week with freight loads inbound of 600 or 800 pounds each in addition to supplies taken in by parcels post. No exact record of business transacted by Mr. Squier was available. If the witness' memory is accurate his testimony indicates that there is more need for winter service now than during the winter season of 1917 and 1918.

While it appears from the testimony offered by applicant that he has been operating without authority of the Commission after such authority was denied following a public hearing, nevertheless since he is required under his mail contract to operate equipment over the route through the winter, which is available for the carriage of passengers, baggage and freight also, and such service will prove of public convenience to the people living along the route we grant the application in so far as it relates to winter service only. While counsel for applicant in his brief points out certain particulars wherein it is alleged that Mr. Quigley has operated in an unlawful manner, his client is not in good position to claim any advantage from it in view of his own unlawful operations. We have examined the authorities cited by counsel and consider that the order herein under all of the circumstances correctly applies the principles relied upon.

It is expected that each of the parties will carefully refrain from trespassing upon the rights of the other and observe all the rules and regulations of the Com-

mission affecting them or their operations.

O R D E R

A public hearing having been held upon the above entitled application, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by applicant of an automobile stage line as a common carrier of passengers, freight, express and baggage between Williams, Colusa County, and Bartlett Springs, Lake County, and of intermediate points during the months of October, November, December, January, February, March and April only during each year, but that public convenience and necessity does not require such operation by applicant during the remaining five summer months of each year.

The rights and privileges hereby granted 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 in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that the said applicant shall within 20 days from the date hereof file with the Railroad Commission its schedule and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying the application,

and shall set forth the date upon which the operation of the line hereby authorized will commence, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariff are filed within the time herein limited.

Dated at San Francisco, California, this

22nd day of July, 1920.

Elliott O. Edgerton

H. D. Loveland

William H. Miller

Erving Martin

Commissioners.