

ORIGINAL

Decision No. 9636.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of)
GEORGE J. BENNETT for certificate of)
public convenience and necessity to)
operate trucking service between)
ranches in Anderson Valley and Clover-)
dale and Geyserville.)

Application No. 6356.

GEORGE W. JOHNSON and J. M. JOHNSON,
Complainants,

vs.,

Case No. 1527.

GEORGE J. BENNETT,
Defendant.

In the Matter of the Application of)
GEORGE W. JOHNSON and J. M. JOHNSON)
for certificate of public convenience)
and necessity to operate and extend)
their freight stage service from and)
between Cloverdale, California, and)
Geyserville, California.)
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Application No. 6621.

John W. Preston and C. A. Linn, by C. A. Linn,
for Complainants and Protestants.

W. F. Cowan by Douglas Brookman, for Defendant
and Applicant, Geo. J. Bennett.

BY THE COMMISSION:

SUPPLEMENTAL OPINION.

On June 15, 1921, George W. Johnson and J. M. Johnson,
as Applicants in Application No. 6621, Complainants in Case No.
1527, and Protestants in Application No. 6356, by their attorneys
filed herein a petition for re-hearing on the matters determined
in this Commission's Decision No. 9027, decided May 28, 1921,

alleging that there was no evidence tending to support the finding that public convenience and necessity required the operation by George J. Bennett (applicant in Application No. 6356) of an automobile truck line as a common carrier of freight between ranches in Anderson Valley and Cloverdale and Geyserville; that said applicant, George J. Bennett, had never in good faith applied or asked for a certificate of public convenience and necessity; and that said applicant, George J. Bennett, should be compelled by an order of this Commission to cease his alleged illegal operation.

A public hearing on the petition for re-hearing was conducted by Examiner Handford at San Francisco on September 10, 1921, at which time the matter was duly submitted for decision.

At the hearing there was no testimony introduced, the presentation of the matter being confined to argument by counsel. The Commission has since carefully reviewed the testimony as presented in those proceedings at the public hearing before Examiner Westover at Cloverdale on March 2, 1921. It clearly is apparent from such review that no showing was made which would justify the granting of the application of George J. Bennett, many witnesses having testified as to the satisfactory service rendered by Geo. W. and J. M. Johnson and but little complaint appearing in evidence and then of a character which indicates instances common to any transportation company and not in any wise sufficient to justify the injection of another carrier into a territory not sufficiently productive of traffic to justify the authorization of a competing line and thereby resulting in the weakening of the ability of an authorized carrier to satisfactorily serve the shipping public.

The character of service heretofore rendered by applicant, George J. Bennett, is fully described in the opinion contained in Decision No. 9028 and was irregular in its nature. The status of this applicant as to his desire for authorization and as to the character of service proposed to be rendered is also fully defined in such opinion. In support of such desire he has been able to secure the signature of residents of Anderson Valley to a petition favoring the granting of his application. Evidence adduced at a public hearing from witnesses who had signed such petition indicates that the petition was signed generally on the basis that it was a matter of indifference to the signers as to who was authorized to do hauling over the route and that applicant, Bennett, should be authorized to continue the character of business in which he had been engaged for some time. The evidence does not, however, sustain the alleged fact that the Johnsons were not satisfactorily serving the territory in accordance with their advertised schedules.

The order heretofore made in this proceeding (Decision No. 9028 as decided May 28, 1921) authorizing Geo. J. Bennett to operate automobile truck service between Philo and Geyserville, serving Cloverdale as an intermediate point, directed said applicant to file within twenty days from its date a schedule of rates covering the proposed service. This portion of the Commission's order has not been complied with in accordance with the Commission's regulations and correspondence with Mr. Bennett relating thereto is unanswered.

After careful consideration of all the matters in this proceeding and a review of the evidence submitted at the public hearing on March 2, 1921, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the operation by George J. Bennett of an automobile truck line

as a common carrier of freight between Philo and Geyserville, serving Cloverdale as an intermediate point, including the serving of ranches in the vicinity of said route.

SUPPLEMENTAL ORDER.

A petition for rehearing having been filed in the above entitled proceedings, a public hearing having been held, the matter having been duly submitted and the Commission having carefully reviewed the evidence heretofore presented and being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that the portion of the order in Decision No. 9028 as decided May 28, 1921, stating that public convenience and necessity required George J. Bennett to operate automobile truck service between Philo and Geyserville, serving Cloverdale as an intermediate point and permitting said Bennett to serve ranches in the vicinity of the said described route, be and the same is hereby annulled and cancelled.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by George J. Bennett of an automobile truck line as a common carrier of freight between Philo and Geyserville, serving Cloverdale as an intermediate point, and

IT IS HEREBY FURTHER ORDERED that Application No. 6356 herein be and the same hereby is denied,

Dated at San Francisco, California, this 26th day of October, 1921.

H. S. Loveland
Charles A. Lawrence
W. H. Benedict

Commissioners.