

Decision No. 9889

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of VICTOR EYRING for certificate of public convenience and necessity to operate stage line service between Fresno and Prescott's Mill, Fresno County, California.

Application No. 7319.

ORIGINAL

H.B.M. Miller for Applicant.
E. W. Cunningham for San Joaquin & Eastern Railroad.
Ernest Walling for W. R. Miles (operating as Huntington Lake Stage Company), and for C. L. Lowry (operating Fresno-Auberry Stage).

BY THE COMMISSION.

OPINION

A public hearing was held by Examiner Westover at Fresno upon the above application to operate passenger stage service between Fresno and Prescott's Mill, Fresno County, one round trip per day, using Cadillac touring car.

Applicant proposes to operate via Auberry, and to serve Indian Mission, Lerona, Hairpin and Prescott's Mill in addition to Fresno. He would operate over the same road used by the Fresno-Auberry Stage, but not serving its territory, and would continue thence to the points enumerated over a dirt road, the last five miles of which is included in the Forest Reserve and built and maintained by the owners of Prescott's Mill. The permit from the Interior Department to construct the road provides that it may not be used by the general public in a manner which would interfere with its use by the mill people. They object to the

use of the road for stage purposes, as it is a one-way road, with few turn-outs, heavy grades, and sharp curves, and they testified that because of these conditions its use for stage purposes would interfere with their use of the road which they had built.

Applicant testified that the mill employed 200 men and had a heavy labor turn-over, and that there were prospects of a large labor camp being installed at Hairpin for proposed hydro-electric construction in that vicinity, but declined to state the source of the information. It appears, however, from the testimony of the mill people that the mill now employs 15 men and employs a maximum of 80 men during the summer months, and that about half of them are permanent, steady employes.

If applicants are not willing to make full disclosure of all facts within their knowledge, bearing upon the questions presented by their applications, their testimony must be disregarded in toto. Mere rumors concerning future public need of service can not be regarded. Applicant's testimony at the hearing was to the effect that the particular need of the proposed service was to enable the men at the mill and those along the route to make a round trip to Fresno the same day, and that the objection to the rail service of the San Joaquin & Eastern Railroad is that its schedules do not provide for such service. The proposed schedule of applicant, attached to the application, does not provide for such service either. At the hearing, however, he proposed a service leaving the mill at 8:00 A.M., and Fresno at 3:00 P.M., requiring 2½ hours for the trip.

The railroad provides a service of one round trip daily, and, by its summer schedule, an additional service on Friday, Saturday and Monday by motor car, by which one may leave the mill in the morning and return at night after spending 5 hours in Fresno. There is also service by the Huntington Lake Stage line via Shaver

over a gravel road, passing about two miles from the mill at an elevation of about 1000 feet higher, and reached by horse trail.

It is apparent from a consideration of the facts that public convenience and necessity do not require the service, and it is also doubtful whether five miles of the road is "a public highway" within the meaning of the Act conferring jurisdiction over stage lines upon the Commission, although this question is not passed upon herein, nor is it necessary to do so.

ORDER

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

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the service offered by applicant Rynning.

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

Dated at San Francisco, California, this 20th day of December, 1921.

H. B. Rindler
A. D. Skyles
J. W. Martin
Oliver A. Howe

Commissioners.