

3.13.32
Decision No. 21642

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DAVE WILLIS for certificate of public)
convenience and necessity to operate) Application No. 21642
passenger, property and baggage ser-)
vice between French Gulch and Carrville)

ORIGINAL

DAVE WILLIS, in Propria Persona.

BY THE COMMISSION:

O P I N I O N

By this application as amended, Dave Willis, an individual, seeks a certificate of public convenience and necessity for the establishment and operation of an automotive service as a common carrier of property between Redding and Carrville via Tower House and French Gulch serving all intermediate points with the exception that no local service is to be performed between Redding and Tower House (both points inclusive) nor between points intermediate between Redding and Tower House.

A public hearing in this matter was conducted by Examiner McGettigan in French Gulch on June 1, 1932, where testimony was received, the matter submitted, and it is now ready for decision.

No protestants to the granting of this application appeared.

Applicant Willis, testifying in his own behalf, stated that he has been engaged in the automotive transportation business for approximately fourteen years. Applicant further testified that he formerly held a certificate of public convenience and necessity between French Gulch and Carrville for the transportation of passengers, baggage and property which he subsequently relinquished

by authority of the Commission. It was his statement that a purely local service between the points as above mentioned would not be successful, but that with the added right to transport from Redding as a point of origin and destination for the area beyond Tower House he would be materially aided in making this venture successful. This thought, coupled with the application of George A. Manley, to abandon his right between Tower House and French Gulch and Lewiston Junction and Lewiston, ⁽¹⁾ now under submission to the Commission, prompted the amended application herein.

His proposal, Willis testified, encompassed the establishment of an "on call" service between termini which would be available between the hours of 6:00 A.M. and 6:00 P.M., subject to the proviso that applicant would require at least twelve hours' notice of a demand for service and would include establishment of a terminal in Redding. Pickup service within the city limits of Redding would also be provided and between April 1st and December 1st of each year daily service would be available with service from December 1st to March 31st contingent upon road and weather conditions permitting operation. Applicant further testified that, based on past personal experience in the territory, he would have a reservoir of some three hundred or more receivers of freight to draw from, including some twenty-five or more mercantile establishments and summer resorts. It was his estimate, again based on his own experience as a permitted carrier, that he would transport some six tons of freight per week in summer and approximately three tons per week in winter.

Applicant presented the testimony of five public witnesses from this territory including two merchants, two resort

(1) Application No. 21986 of May 28, 1938.

owners and T. B. Williams, county supervisor from Trinity County, all of whom agreed that the proposal of applicant suited their needs and would give them a direct, through and faster service from Redding, their principal source of supply. Generally it was testified that freight moving into and out of this territory consisted of foodstuffs, livestock, feed, farming implements, culverts, pipe, a little lumber, some gas, oil and fuel and mine supplies.

Referring to the record in its entirety, we find that there exists a considerable public demand for a seasonal service for the transportation of property necessary to the well-being of residents of this section of the country. It also appears that applicant Willis is well-thought-of and well liked in this area and that his proposed service has the support of and will be used by the public residing in the district to be served. Likewise it appears, duly considering the needs of the communities along this route, that a direct service from producing to consuming area "on call" as proposed will adequately fill the needs of those concerned. While it is clear that the bulk of the movement will be inbound from Redding and the back haul smaller in volume, it was the testimony of witnesses that what back haul there was would go to the applicant. Clarifying his statement as to the twelve hour notice herein referred to, applicant testified that this was entirely in accord with the purchasing habits and requirements of the majority of his patrons and he looked for no untoward demands in this direction. He testified to his willingness to make a trip upon order, with no limit as to volume of freight available, within twelve hours after request for service had been received. He stated his experience indicated that most requests for service would be directed to him at his Redding terminal. He felt that no difficulty would be experienced in handling the minority of orders which might be received at other points on his route. Applicant

further stated that all points proposed to be served on his route were directly on the road he proposed to traverse with the exception of Scotts Ranch, a summer resort two miles south of Trinity Center and three miles off said route. Willis requested authority to serve this point by diversion.

Equipment available for and to be used in this service consists of one 2-ton truck, one Dodge panel truck and one 1-ton stake side truck. Rates to be assessed for this service will be duly filed⁽²⁾ and will comply in all respects with minimum requirements established by Commission's Orders wherein applicable.

Based on the record in this proceeding, we are of the opinion that the service proposed by applicant will be in the public interest and that applicant's general experience and reputation in the territory will afford a reasonable opportunity for the establishment and operation of the service on a compensatory basis. It is recommended therefore that the application, as amended, be granted.

Dave Willis is hereby placed upon notice that "operative" rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

(2) Application No. 21642, filed on December 14, 1937, antedating by some considerable period the Commission's Decision No. 30370, on Case No. 4087 and hence not in conformity therewith.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the estab-
lishment and operation by Dave Willis, an individual, of an auto-
motive service as a highway common carrier as such is defined in
section 2-5/4 of the Public Utilities Act between Redding and
Carrville and all intermediate points via Tower House and French
Gulch, over and along the following route, with the right to serve
Scotts Ranch by diversion:

U.S. Highway 299 between Redding and Tower
House, County Road between Tower House and
Carrville,

and subject to the following restriction,

No local service shall be performed between
Redding and Tower House (both points inclusive)
nor between points intermediate between Redding
and Tower House.

IT IS HEREBY ORDERED that a certificate of public conven-
ience and necessity therefor be, and the same hereby is, granted
to Dave Willis subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 13th day of June, 1938.

Malcolm
John
James
Ray
Arch
COMMISSIONERS