

Decision No. 32215

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAM BIDWELL, for certificate of public)
convenience and necessity to operate a)
passenger and express service between) Application No. 22862
Nevada City, Nevada County, California,)
and Forest, Sierra County, California.)

FRANK FINNEGAN, for Applicant.

BY THE COMMISSION:

O P I N I O N

By his application, as amended, Sam Bedwell (erroneously set forth above as Bidwell) an individual, seeks authority to establish and operate an automotive service as a common carrier of passengers, baggage and property, between Nevada City and Forest and intermediate points via Alleghany, limited as to the transportation of property to single shipments of 1000 pounds or less.

A public hearing in this proceeding was had before Examiner McGettigan in Nevada City, on August 22, 1939, where testimony was taken, the matter submitted, and it is now ready for decision. No protests to the granting of this application were received.

Testifying in his own behalf, applicant Bedwell stated that he resided in the town of Forest where he has operated a star route mail service for the past 14 months, under contract with the United States Government, transporting mail and parcel post between the points proposed herein to be served under a certificate of public

convenience and necessity. Revenue received from this mail contract, which expires in June of 1942, amounts to \$4200 per year. Applicant further testified that he proposes to operate six days a week on regular schedules, as set forth in amended exhibit "B" attached to the application. Rates and fares to be assessed for the proposed service, according to Bedwell, are to be those set forth in exhibit "A" of the application, subject to any changes which may be necessitated in order to conform to minimum rate orders of the Commission, or other tariff rules and regulations established by the Commission. The equipment to be used by applicant in the operation of this service consists of a 1939-3/4 ton Chevrolet truck with seating capacity for two passengers, and also one Diesel caterpillar tractor, two pack horses and a bob sled for winter use.

Ten representative public witnesses from several of the communities proposed to be served, appeared and testified in support of the application.

Without exception, these witnesses stated that a service such as proposed was definitely needed; that no comparable service now existed, and that Bedwell had their full confidence and support as a competent and accommodating operator during his service period as mail carrier in this territory.

From the record in this proceeding, it was disclosed that some 600 to 1000 people reside in the various communities and along the route over which applicant proposes to operate. It further appears that these people are dependent to a considerable degree upon Nevada City for banking, legal, medical and hospitalization services, as well as a trading center for most of their groceries, produce, meats, clothing and other supplies, including machinery

parts. Under present conditions, it was alleged that a more or less state of isolation existed for most of these communities, in so far as public transportation is concerned.

With respect to the number of passengers who might be expected to patronize the proposed service, the record indicates not more than an average of one a day, with experience dictating an expectation of three or four a week.

Anticipated tonnage would not exceed 1000 pounds per day, and from the testimony of the public witnesses in this matter, the average weight of shipments would vary from 50 to 400 pounds, and service requirements from one to three times a month with some daily shipments.

Applicant admitted that without the mail contract, he would be unable to continue the daily operation proposed, on a compensatory basis, but declared his confidence in his ability to develop business in this territory which would in the future, he believed, compensate him for his efforts.

Unquestionably, the service proposed by this applicant will serve a definite public need. It is equally clear, according to the record, that this applicant, due to his activities as a star route mail operator, is in a position to adequately furnish this service. He apparently enjoys the full support of the residents of this area and has evidenced an ability to afford the type and frequency of service desired by said residents. While it is apparent that no great volume of traffic will accrue to this operator, it would be amiss to deny the public in this section of the country a service which they evidently need and indicate they will support. This is particularly evident when it is considered that applicant will be

able, through the instrumentality of his government mail contract, to perform this service at little, if any, extra cost or trouble to himself.

A full consideration of the record in this proceeding indicates a finding that the proposal of applicant is in the public interest and that his petition for authority to establish the service described herein should be granted. The following order will so provide.

Sam Bedwell 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.

ORDER

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Sam Bedwell of an automotive service for the transportation of passengers and baggage, as a passenger stage corporation, as such is defined in section 2 $\frac{1}{4}$ of the Public Utilities Act, and as a highway common carrier of property, as such is defined in section 2-3/4 of the Public Utilities Act, between Nevada City and

Forest and intermediate points via Alleghany, subject to the restriction that,

1. In the transportation of property no single shipment in excess of one thousand (1000) pounds shall be transported.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Sam Bedwell, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of the conditions within the periods of time fixed herein, unless, for good cause shown, the time shall be extended by further order of the Commission.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof.
3. 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 (10) 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 certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
4. 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 (5) 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.
5. 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.
6. 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.

7. 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 12th day of September, 1939.

Robert W. ...
Frank ...
Ray ...
...
Justus J. ...
COMMISSIONERS