

ORIGINAL

Decision No. 34661

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CHARLES M. ELARIO for certificate of public convenience and necessity to operate a passenger stage service as a common carrier between Victorville and Adelanto, California.)
)
) Application No. 24295
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In the Matter of the Application of W. M. MONTGOMERY for certificate of public convenience and necessity to operate transportation and stage service, as a common carrier, between Adelanto and Victorville, in the County of San Bernardino, State of California.)
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) Application No. 24321
)
)

In the Matter of the Application of JAMES E. KEENER, for a certificate of public convenience and necessity to operate a passenger stage service between: Victorville and Adelanto, and between Adelanto and San Bernardino.)
)
) Application No. 24326
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)

L. M. PHILLIPS, for applicant Charles M. Elario in Application No. 24295.

JAMES L. KING, for applicant W. M. Montgomery in Application No. 24321.

JULIUS J. NOVACK and HAROLD HABERKORN, attorneys for applicant James E. Keener in Application No. 24326.

D. D. MILLER, for Interstate Transit Lines, Interested Party.

C. C. JENSEN, H. C. LUCAS and H. D. RICHARDS, for Pacific Greyhound Lines, Interested Party.

BY THE COMMISSION:

O P I N I O N

The above-entitled applications seek to establish passenger stage service between Victorville and Adelanto, a distance of nine miles, for the purpose of serving the United States Army

Air Base now being constructed near Adelanto. Application No. 24326 proposes, in addition, to operate a passenger stage service directly between Adelanto and San Bernardino, a distance of forty-four miles.

Inasmuch as the matters are substantially similar in character, they were consolidated for hearing and were heard on a joint record at Victorville before Examiner Broz on August 19, 1941, at which time each applicant was represented by counsel, testimony and evidence were received and the matters were submitted on the record. They are now ready for decision and will be disposed of by one opinion and order.

Application of Charles M. Elario, No. 24295

This applicant testified that he proposes to operate a 20-passenger bus between Victorville and Adelanto with a one-way fare of 30 cents and a round-trip fare of 50 cents. He stated that he had not determined what type of equipment he would operate and that he had made no financial arrangement, as yet, to purchase said equipment. The witness said he is engaged in the business of selling automobiles and accessories in Victorville, and that his net worth at the present time is approximately \$28,000. He further testified that he owns sufficient property in the city of Victorville upon which to establish a terminal and garage and would spend about \$1,000 on such facilities.

Application of W. M. Montgomery, No. 24321

This applicant testified that he proposes to operate two 40-passenger buses between Victorville and Adelanto and the Air Base, at a passenger fare of approximately two cents per

passenger mile and will, in addition, offer commutation fare books at a discount of 10 per cent of the one-way fare. ⁽¹⁾ He stated that he has secured a written commitment from the Ford agency in San Bernardino to deliver the two 1942-model Ford units by October 1 if the Commission grants him authority to operate passenger stage service.

This witness' testimony shows that he is engaged in the trucking business in Oro Grande, a point six miles north of Victorville, and is arranging to finance his proposed service with the assistance of his father-in-law, P. F. Hillwig, a rancher in the Oro Grande district, and Sherman T. Marquand, a resident of Victorville. The witness stated that his personal assets amount to \$1,800 and the combined assets of his father-in-law and Mr. Marquand amount to approximately \$36,000. He asserted that his operating expenses would amount to 20 cents per bus mile; that he has studied the passenger bus operations near Riverside Field and at other army bases and believes that his proposed service would be compensatory.

He offers to establish a passenger terminal and garage at Victorville but said he had made no study of the precise location or cost of such facilities as yet. Upon cross-examination he stated that his two 40-passenger buses would cost \$6,200, of which amount \$2,100 would be paid as a down payment, the balance to be

(1) This applicant's proposed fares are as follows:

<u>Between</u>	<u>And</u>	<u>Miles</u>	<u>One-Way Fare</u>
Victorville	Adelanto	9	15 cents
Victorville	Air Base	6½	10 cents
Adelanto	Air Base	2½	5 cents

Commutation fares to be sold at a discount of 10 per cent below the regular one-way fares.

(2)
paid off within two years.

Application of James E. Keener, No. 24326

This applicant proposes two distinct services, one between Victorville and Adelanto, and the other between Adelanto and San Bernardino. He testified that he intends to operate five station wagons, two between Victorville and Adelanto and three between Adelanto and San Bernardino; that he would use large passenger buses instead of the station wagons if necessary; that he would operate "on-call" service daily from 5:00 A.M. to 1:00 A.M.; and that he would have a terminal at the Stuart Hotel Annex in Victorville. This applicant's proposed fare structure contemplates a single one-way fare of 20 cents between Victorville and Adelanto; a one-way fare of 55 cents between Adelanto and San Bernardino and \$1.00 for round-trip movements between the latter points.

The witness said that he has been engaged in truck transportation operation in the vicinity of Victorville for the past six years hauling sand and gravel; that his personal assets amount to approximately \$3,000; that he can obtain additional credit of about \$3,000; and that a resident of Victorville has offered to lend him the sum of \$3,000 to carry on the proposed operations.

On cross-examination the witness admitted that he made no study of his proposed direct service between Adelanto and San Bernardino to determine whether it would be compensatory. He

(2) It is proper to point out here that a common carrier may not execute a note, conditional sale contract or other evidence of indebtedness, payable at more than the twelve months after date without first having obtained permission from the Commission. The applicant stipulated that he would seek the necessary authority if his application is granted.

conceded that if service is established by him or by either of the other applicants between Victorville and Adelanto, that through service between Adelanto and San Bernardino via Victorville could be efficiently inaugurated by means of joint passenger fares in connection with the existing services of Pacific Greyhound Lines, Interstate Transit Co. and Santa Fe bus lines, now operating over U. S. Highway No. 66 between Victorville and San Bernardino. (3)

Public Witnesses

The editor of the Victor Press in Victorville testified that he is familiar with the construction project at Adelanto; that he was reliably informed by the resident engineer that 4,150 men will be stationed there by the Army Air Corps to undergo training; that the air base is expected to be ready for use about September 16; (4) that about 900 civilian employees are now engaged in work at the field, many of whom live in Victorville and there is no for-hire passenger transportation service available to them between Victorville and Adelanto at the present time.

The secretary of the Victorville Chamber of Commerce testified that there is need for a public passenger transportation

(3) It was stated for the record at this point that there are now seven passenger stage services operated daily in each direction between Victorville and San Bernardino by the Pacific Greyhound Lines, Santa Fe bus lines and Interstate Transit Lines.

(4) There was some testimony purporting to show that this opening date may be postponed due to unavoidable delays in construction work.

service between Victorville and Adelanto at the present time and that this need will be intensified when the air base is opened for training purposes. He stated that the Victorville Chamber of Commerce favors the inauguration of passenger stage service between Adelanto and Victorville but is opposed to the establishment of direct bus service between Adelanto and San Bernardino because the latter point can be adequately served from Adelanto by means of joint fares via Victorville in connection with the existing stage services.⁽⁵⁾

The San Bernardino Chamber of Commerce was represented by a witness who testified that the proposed new stage service between Adelanto and San Bernardino was affirmatively endorsed by the Chamber's board of directors and the witness was authorized to attend the hearing before the Commission and testify in support of the proposal. He stated, however, that while the Chamber endorsed the idea of a direct bus service between Adelanto and San Bernardino, it had not endorsed the application of any particular applicant.

Several other witnesses called by counsel for the respective applicants testified that they were prepared to guarantee financial support to the respective operations proposed herein.

Summary of Evidence

The record justifies a conclusion that public convenience and necessity require the establishment and operation of a passenger stage service between Victorville, on the one hand, and Adelanto and the Army Air Base, on the other hand, and conversely that the record does not sustain a finding that direct service is necessary

(5) Each of the applicants stated that he would have no objection to establishing joint fares with existing passenger stages at Victorville to provide through service between Adelanto and San Bernardino.

between Adelanto and San Bernardino. It appears, moreover, that the volume of traffic to be offered would support the operation of a single carrier and that the public need would be best met by one operator giving dependable and satisfactory service, rather than by two or perhaps three carriers trying to divide the business between them. It remains then to determine which applicant, if any, should be certificated.

Applicant Elario proposes to operate one 20-passenger bus between Victorville and Adelanto at a one-way fare of 30 cents and a round-trip fare of 50 cents. Applicant Keener proposes to operate two station wagons, or "other suitable equipment" at a one-way fare of 20 cents with no reduction for round-trip movements. Applicant Montgomery proposes to operate two 40-passenger buses at one-way fares of 15 cents between Victorville and Adelanto, 10 cents between Victorville and the Air Base, and 5 cents between Adelanto and the Air Base, with no reduction for round-trip movements, but a 10 per cent discount for 10-ride commutation books. From the standpoint of the equipment to be operated, proposed fare structures and operating experience, it seems that applicant Montgomery's proposal offers the best prospect of fulfilling the public need for passenger service in the territory here involved.

We are of the opinion and find that the territory here involved will adequately support the operation of but one carrier and that applicant Montgomery appears to be the carrier best fitted to perform the service and should be certificated. We also find that the applications of Charles M. Elario and James E. Keener should be dismissed without prejudice to said applications being reopened for further consideration by the Commission in the event that applicant Montgomery does not establish his proposed service under the terms and conditions set forth in the order attached to this opinion.

O R D E R

A public hearing having been held in the above-entitled proceedings, the Commission being fully advised, and based upon the foregoing opinion and finding that public convenience and necessity so require:

IT IS ORDERED that W. M. Montgomery be and he is hereby granted a certificate of public convenience and necessity authorizing him to operate a passenger stage corporation as defined in Section 2 $\frac{1}{2}$ of the Public Utilities Act of the State of California, for the transportation of persons between Victorville and Adelanto and intermediate points, between Victorville and the Adelanto Air Base, and between Adelanto and the Adelanto Air Base.

Said certificate is granted subject to the following condition:

W. M. Montgomery, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for the authority hereby granted in excess of the actual cost thereof.

IT IS FURTHER ORDERED that, in the operation of the passenger stage corporation pursuant to the foregoing certificate, the following service regulations shall be observed:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the effective date of this order.
2. Applicant shall file in triplicate with the Commission, and within forty-five (45) days from the effective date of this order, upon not less than five (5) days' notice to the Commission and the public, a tariff setting forth the fares to be charged for the proposed service in conformity with the fare structure contained in the application, said tariff to be filed in a manner satisfactory to this Commission.

3. Applicant shall conduct said passenger stage service over and along the following routes, subject to the authority of the Railroad Commission to change or modify them at any time by further order:

Beginning at the city of Victorville, on U.S. Highway No. 66, thence north to the junction of U. S. Highway No. 66 and Adelanto Road, thence via Adelanto Road to the town of Adelanto, with right to divert to the Adelanto Air Base en route.

4. The service shall be operated "on call" with the right to establish regular schedules of service to meet public requirements upon public demand.
5. Applicant shall comply with the provisions of General Order No. 93-A in so far as they are applicable to the type of service herein authorized.

IT IS FURTHER ORDERED that Applications Nos. 24295 and 24326 be and they are hereby dismissed without prejudice.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 14th day of October, 1941.

[Signature]
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COMMISSIONERS