

Decision No. 11657

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
The San Francisco-San Jose Fruit and)
Produce Transfer Company for Certif-)
icate of Public Convenience and Nec-)
essity to Establish, Operate and)
Continue an Automobile Truck Line as)
a Common Carrier of Fruit, Produce)
and Vegetable Commodities between)
Redwood City, Palo Alto, Mayfield,)
Mountain View, Los Altos, Lawrence)
Station, Alviso, Cupertino and inter-)
mediate points to Oakland Wholesale)
Fruit and Vegetable Markets.)

APPLICATION NO. 8435.

- Spencer G. Prime, For Applicant,
- E. A. Loveland, For Morris Draying Company,
- T. J. Silva, Pat Silvestri, and Cunha Bros., Protestants,
- A. A. Rogers, For A. J. Lawrence, F. L. Misener and J. F. Garcia,
- Protestants,
- Charles A. Thompson, by R. A. Morgan, For Kiso Yasunaga, Protestant.

BY THE COMMISSION:

O P I N I O N

William D. Schivo, August Schivo and John F. Corriea, co-partners, doing business under the fictitious name and style of San Francisco-San Jose Fruit and Produce Transfer Company, have filed an application with the Railroad Commission, in which they petition for a certificate declaring that public convenience and necessity require the operation of an automobile truck line as a common carrier of fruits, vegetables and produce between Redwood

City and the commission houses and canneries in the city of Oakland, serving as intermediate points Palo Alto, Mayfield, Mountain View, Los Altos, Cupertino, Lawrence and Alviso.

A public hearing upon the above entitled application was heard before Examiner Geary on January 23, 1923 at San Francisco, at which time the matter was submitted and it is now ready for decision.

Some eight existing carriers appeared at the hearing, through counsel, and in part protested the granting of the application as herein applied for. At the hearing applicants amended their petition to cover a common carrier of fruits, vegetables and produce from Redwood City to Lawrence and vicinity, north along the Lawrence road to Alviso road, but not serving the communities of Santa Clara, San Jose, Alviso, Milpitas or any points intermediate to Oakland.

They propose to transport only the commodities hereinabove mentioned from truck gardens and farms to commission houses and canneries located in Oakland and to haul no commodities on the return trip other than empty containers. Applicants called, in support of their petition, some six witnesses. One of the witnesses, an active co-partner, testified to the repeated demands received for the transportation of farm and garden produce to the Oakland commission houses.

The applicant at the present time operates an automobile truck line as a common carrier of the same class of produce from the various Peninsula points to San Francisco and the witnesses for applicant testified that due to the fluctuation in market prices or the over-stocking of the San Francisco markets it was frequently advisable to ship produce to Oakland commission houses, where a far better price could be obtained, and due to the fact

that a considerable portion of the territory proposed to be served is without direct truck communication with Oakland commission houses, producers are forced to ship to the San Francisco markets, irrespective of the conditions of the market, the demand for the products, or the prices which might exist at the particular time.

Four witnesses from Palo Alto district were called, and corroborated the testimony of the previous witness. One additional witness, operating a truck garden one mile west of Mountain View, also testified that on frequent occasions he desired to ship produce to the Oakland commission houses, but did not do so because of the fact he was under the impression that no automobile freight truck common carrier operates in his territory.

Evidence was submitted by several of the protestants, represented by counsel. One of these witnesses, F. I. Misener, testified in effect that under certificate heretofore obtained from the Commission he is transporting, daily, the products from Santa Clara Valley territory as far west as Mountain View and vicinity; that he has sufficient equipment and is adequately caring for such business destined to Oakland markets. An examination of the records of the Commission shows that said Misener is authorized to transport produce from the Mountain View territory and vicinity and that if the witness of applicant heretofore referred to had inquired, he could and would have been served by this protestant.

B. F. Morris, another protestant, submitted testimony to the effect that he holds a franchise authorizing the transportation of produce to canneries located in the vicinity of Oakland, the territory comprising a district as far west as Mayfield, but insofar as his protest is concerned it only affects the transportation of produce to canneries for canning purposes and at that, only with reference to territory situated in Santa Clara County east of the

town of Mayfield. None of the other protestants appearing at the hearing submitted any testimony whatsoever with reference to their respective operations.

The Commission is of the opinion, from the record in this proceeding, that it is justified in granting, in part, applicant's petition for a certificate of public convenience and necessity authorizing said applicant to engage in the transportation of fruits, vegetables and produce from the territory as more specifically described in the Order herein to commission houses and canneries located in the city of Oakland.

O R D E R

A public hearing having been held in the above entitled application, evidence submitted, and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by William D. Schivo, August Schivo and John F. Corriea, copartners, doing business under the firm name and style of San Francisco-San Jose Fruit and Produce Transfer Company, of an automobile truck line as a common carrier of fruits, vegetables and produce only from Redwood City to Commission houses and canneries located in and adjacent to the city of Oakland, California, serving as intermediate points Menlo Park, Palo Alto, Mayfield, Los Altos and shipping points located within a radius of three miles on either side of the highway to the points hereinabove mentioned, it being distinctly understood that the applicant shall not haul any fruits, vegetables or produce from Mayfield or points east thereof to

Oakland, nor any fruits, vegetables or produce whatsoever from Mountain View, Sunnyvale, Santa Clara, San Jose, Alviso, Milpitas or any points intermediate thereto and Oakland, California, and

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

- 1- Applicant herein shall file within a period of not to exceed ten (10) days from date hereof its written acceptance of the certificate herein granted; shall file within a period not to exceed twenty (20) days from date hereof tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those filed as exhibits and attached to the application herein, and shall commence operation of the service herein authorized within a period not to exceed thirty (30) days from date hereof.
- 2- 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 secured.
- 3- No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 13th day
of February 1923.

C. Seavey
H. B. Brundage
Ernest Shore
J. T. Whitteley
Commissioners.