

Decision No. 12045

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
H. Campondonico Draying Company for)
a Certificate of Public Convenience)
and Necessity to operate an Automo-)
bile Freight Service as a Common)
Carrier of Perishable Commodities)
between San Francisco and Irvington,)
Calif.)

APPLICATION NO. 8770.

Fred L. Greher, for Applicant,
F. G. Prine, for San Francisco & San Jose Fruit &
Produce Trans. Company.
Gwyn H. Baker, for Pat Silvestri, T. J. Silva, Cunha Bros.,
A. J. Lawrence and J. E. Garcia, Protestants,
George Baker, for American Railway Express Company, Protestant.

BY THE COMMISSION:

O P I N I O N

The applicants herein are co-partners and seek a certificate of public convenience and necessity to cover the operation of an automobile freight service for the transportation of perishable commodities between San Francisco and Irvington.

A public hearing on the application was held before Examiner Geary at San Francisco on April 24, 1923 and the matter having been duly submitted is now ready for a decision.

These applicants were originally engaged in the draying business in the city of San Francisco and early in the year 1917 commenced to haul perishable products in response to the demands of produce houses who found it impossible to secure by railroad the

expeditious service necessary to get the farm products to the selling markets at the proper hour and in good condition. At first the service was very irregular and only rendered on special orders, but as the business increased the scope of the activities were enlarged until at the present time four trucks are employed during the busy season of the year.

The testimony in this proceeding clearly indicated that a large number of shippers depend upon applicants' service and have been using it for a number of years past.

The American Railway Express Company, through its witness, presented exhibits setting forth the rates assessed between the points in competition with applicants, which rates are materially higher than those proposed by the truck company. It also presented an exhibit showing the trains upon which the express matter is handled. The service of the Express Company is different from that here proposed, inasmuch as the applicants pick up the products on the farms and deliver direct at an agreed hour to the Commission merchants without the necessity of rehandling. Tonnage via the Express Company must, in most instances, be handled by the farmer to the railroad station, is subjected to a number of handlings en route, the hour of arrival at the produce houses cannot be definitely determined, and the hour of shipping from the railroad station is not always convenient to the farmer. This different service at the higher rates does not appear to be in competition with the kind of service given by the applicants.

Only one truck company presented testimony in opposition, which was to the effect that it is operating in the same general territory and could arrange to handle all of the tonnage offered, but in view of the fact that applicants have been operating in competition with this particular protestant since the

beginning, the hostility does not have any great weight.

Chapter 213, Statutes 1917, provide that no certificate is required by a transportation company that has been operating in good faith since prior to May 1, 1917, and the testimony in this proceeding clearly indicates that applicants herein were operating prior to the effective date of the Statutes of 1917, although the common carrier service performed at the beginning was not always regular or between fixed termini. It would therefore appear that the purpose of this application is to bring the operations fully within the law by the filing of tariffs and time schedules.

After giving careful consideration to all the testimony and to the statements contained in the application, we are of the opinion and find that there is a public convenience and necessity for the service of these applicants. A certificate should be granted, the rates to be charged to be as set forth in Exhibit A attached to and made part of the application.

O R D E R

The H. Campodonico Draying Company (Garcia Bros. & Aiken and Henry Campodonico), having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight line as a common carrier between San Francisco and Irvington, via San Leandro, a public hearing having been held, the matter having been duly 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 these applicants of an automobile freight line as a

common carrier between San Francisco and Irvington, via San Leandro and that a certificate of public convenience and necessity be, and the same hereby is granted, subject to the following conditions:

1. Applicants herein shall file within a period of not to exceed ten (10) days from date hereof their 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 an exhibit and attached to the application herein, and shall commence operation of the service herein authorized within a period of 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 applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 8th day
of May, 1923.

C. L. Seamy
H. B. Brundage
Irving Mattson

Commissioners.