

Decision No. 12065

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Oliva Bros. for a Certificate
of Public Convenience and Necess-
ity to Operate a Freight Autom-
obile Truck Service between San
Francisco and East San Jose, via
San Leandro, Hayward, Decoto, Center-
ville, Irvington, Niles, Warm Springs
and Milpitas.

ORIGINAL

APPLICATION NO. 8721.

August Oliva, for Applicant.
S. G. Prine, for San Francisco & San Jose Fruit &
Produce Trans. Company, Protestant.
L. N. Bradshaw, for Southern Pacific Company, Protestant.
George Baker, for American Railway Express Company, Protestant.
E. C. Shoup, for Peninsular Railway Company, Protestant.

BY THE COMMISSION:

O P I N I O N

The applicants herein have requested the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight truck service between San Francisco and East San Jose.

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

The applicants conduct a general fruit and produce business in the city of San Francisco, own one truck which is primarily employed in the transportation of farm products from the ranches to San Francisco stores and, by this application, de-

sire authority to act as a common carrier for the transportation of fruit and vegetables to outside parties when the truck is not completely filled with commodities owned by themselves. It is not the intention to operate on a regular schedule but only when sufficient tonnage is in sight to justify a trip over the route. Only one witness testified along the general lines set forth in the application, which testimony clearly indicated there was no desire to furnish a common carrier truck service and that the public would benefit but little, receiving service only when the truck would not be otherwise fully loaded.

No testimony in support of the application was given by any shipper and the testimony of the applicant clearly showed there is no public necessity or convenience for the service.

Between the points in question there are now 36 automobile freight transportation companies, divided - 12 carrying fruit and vegetables, 8 carrying milk and cream, and 16 carrying general merchandise.

The Commission, in previous decisions on applications of this nature, has repeatedly held that where sufficient and satisfactory service is being rendered by authorized transportation companies over a specified route at reasonable rates, new organizations would not be granted authority to operate. The mere desire to enter the transportation business as a common carrier to serve the public only when convenient to do so is not sufficient justification for the issuance of a certificate of public convenience and necessity.

After consideration of all the facts and circumstances, we are of the opinion that the application has not been justified and that the same should be denied.

O R D E R

Oliva Bros. having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight truck service as a common carrier of fruit and vegetables between San Francisco and East San Jose, a public hearing having been held, the matter having been duly submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that this application be and the same is hereby denied.

Dated at San Francisco, California, this 9th day of May, 1923.

Chas. J. ...
H. B. ...
Irving ...
Commissioners.