

Decision No. 12421

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
F. A. BENNETT and L. C. FAUS for cer-
tificate of public convenience and
necessity to operate auto freight
truck service between the City of
Los Angeles proper and Los Angeles
Harbor, Steamship Wharves located at
Wilmington and San Pedro.

Application No. 8467

ORIGINAL

Frank M. Smith, for applicant.
Devlin & Brookman, by Douglas Brookman,
and Harry N. Blair, for Hodge Trans-
portation System and Los Angeles and
San Pedro Transportation Company.
C. W. Cornoll, for Pacific Electric Rail-
way Company and Southern Pacific Co.
Howard Robertson, for California Truck Co.,
Pioneer Truck Company, Citizens Truck
Company, Star Truck and Transfer Co.,
and Paul Kent Truck Company.
Joseph Masgrove, for Smith Bros. Truck Co.
T. A. Reach, for American Railway Express
Company.

SEORE, Commissioner.

OPINION ON REHEARING

The above entitled application of F. A. Bennett and
L. C. Faus, co-partners, is for a certificate of public convenience
and necessity authorizing the operation of an automotive truck line
as a common carrier of freight between the City of Los Angeles
proper and the steamship wharves located at Wilmington and San
Pedro, hereinafter referred to as Los Angeles harbor. Hearings
were held upon the above entitled application and on March 14,
1923, the Railroad Commission issued its Decision No. 11782 in
which the application was denied. On March 21, 1923, a petition
for rehearing was filed and a rehearing granted. A rehearing
has been held, the matter has been submitted and is now ready for

decision.

At the original hearing the application was protested by the Southern Pacific Company, Los Angeles & Salt Lake Railway Company, Pacific Electric Railway Company, the American Railway Express Company, the Hodge Transportation System and Los Angeles and San Pedro Transportation System, the latter two named truck companies operating between the points proposed to be served by applicant. The same companies protested the granting of the application at the rehearing with the addition of certain truck companies at the time operating between Los Angeles and the harbor district, although such companies have no rates on file with the Commission nor have any of them secured certificate of public convenience and necessity authorizing them to engage in the transportation of property for compensation between the points herein proposed to be served.

At the rehearing the matter was submitted upon evidence introduced at the original hearing in this proceeding, together with evidence introduced in Case No. 1871, Hodge Transportation System, et al. vs. Ashton Truck Company, et al., which case embraced a complaint filed by authorized truck transportation companies against a number of truck companies operating between Los Angeles and the harbor who had secured no certificate of public convenience and necessity authorizing their operation or had not complied with the general orders of the Commission requiring the filing of tariffs of rates under the provisions of Section 5 of Chapter 213, Statutes of 1917.

The evidence submitted in Case 1871, which by stipulation was to be considered in the present proceeding in so far as material, embraced a detailed review of shipping and trucking conditions affecting Los Angeles harbor and the City of Los Angeles. Without reviewing in detail such evidence it is sufficient to state that tonnage moving in and out of the harbor of

Los Angeles has increased enormously during the last several years and in fact is materially increasing monthly. Statements of individuals connected with harbor concerns and familiar with harbor conditions were generally to the effect that approximately 40 percent of tonnage moving into Los Angeles harbor was hauled from the docks by motor truck. Some of these witnesses testified that the entire rail and truck facilities now available are inadequate to take care of incoming shipments within the desired time.

Unquestionably, in the development of Los Angeles harbor and its terminal facilities, primary consideration was given to the establishment of rail and water connections, and the facilities for loading and unloading trucks are unequal to the needs of the traffic. Nevertheless, the volume of light shipments handled by trucks to and from the harbor is rapidly and greatly increasing, because of their prompt deliveries in less than car load lots.

There are at the present time only three truck companies with tariffs on file with this Commission operating between the harbor and Los Angeles proper. Two of such companies only protested the granting of the present application and introduced evidence. One of these is a limited carrier holding a certificate authorizing the transportation of specific commodities only in lots of not less than 3 tons and manifestly is not in a position to handle the diversified products received at Los Angeles harbor from water carriers for transportation to the City of Los Angeles proper.

A criterion of the demand for truck service between the harbor and Los Angeles is shown by the fact, admitted by

all parties, that in addition to the three carriers who have rates on file with this Commission showing service between the harbor and Los Angeles, there is a large number of other truck companies operating in the transportation of property for compensation, both to and from Los Angeles and Wilmington and San Pedro many of which are operating, not infrequently but regularly to and from said points.

The decision herein is based primarily upon the evidence on behalf of public convenience and necessity submitted at this proceeding, including the testimony of harbor experts in the hearing of Case No. 1871, stipulated into the evidence in this proceeding, and showing that the entire rail and trucking facilities available, including the operation of so-called unauthorized carriers, are not adequate to meet the present growing demands for the prompt clearing of freight from the harbor docks. It therefore appears in the interest of public convenience and necessity from the standpoint of the shipping companies, the terminals and the business community of Los Angeles, that additional trucking facilities be provided.

In addition, however, this proceeding developed the fact that outside of the defendants in Case No. 1871, a large part of the harbor business is handled by other unauthorized carriers who have continued to ignore the regulatory provisions of the State law in the face of numerous communications from the Commission calling

their attention to such violations. Accordingly when an applicant, properly qualified, comes with clean hands and in good faith asking for a certificate of public convenience and necessity authorizing him to engage in this class of transportation service, the Commission is disposed to give such an application the consideration that it deserves, with such benefits as accrue to an operator under legal authorization.

It is the duty of all trucking concerns who propose to operate or are operating under conditions which place such operation under the jurisdiction of the Railroad Commission according to State law, to comply with the provisions thereof. It is as well the duty of public authorities to see that the existing State law is duly enforced and to prevent operation in violation of the provisions thereof.

The present applicants have endeavored in every way to comply with the requirements of State law and upon the showing made in the present proceeding we find as a fact that public convenience and necessity require the operation as herein proposed.

ORDER ON PETITION FOR REHEARING

A public hearing having been held in the above entitled matter, 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 F. A. Bennett and E. C. Faus, co-partners, of an automotive truck line as a common carrier of freight between Los Angeles proper and Los Angeles harbor (Wilmington and San Pedro), 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. That applicants, Bennett and Faus, co-partners, shall file with the Railroad Commission their written acceptance of the certificate herein granted within a period not to exceed ten days from date hereof, and shall file, in duplicate, tariff of rates and time schedules identical with Exhibits "A" and "B" attached to the application herein, within a period not to exceed twenty days from date hereof, and shall commence operation under the certificate herein granted within a period not to exceed thirty 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 him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that Decision No. 11782
be, and the same hereby is, revoked and annulled.

The foregoing Opinion and Order are hereby approved
and ordered filed as the Opinion and Order of the Railroad
Commission of the State of California.

Dated at San Francisco, California, this 31st
day of July, 1923.

Chas. J. Whittlesy

Dwight Martin
Edwin Shore

J. T. Whittlesy
Commissioners.