

Decision No. 13091

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

-000-

In the Matter of the Application of)
 R. H. RASMUSSEN, J. C. SVANE and)
 FRED LUDEKENS for a certificate of)
 public convenience and necessity to)
 operate an automobile truck line as : Application No. 9149
 a transportation company for the)
 carrying of freight between San Fran-)
 cisco and Oakland, California, on the)
 one hand, and Crockett, Port Costa and)
 Martinez, California, on the other hand. :

In the Matter of the Application of)
 R. H. RASMUSSEN and J. C. SVANE for)
 a certificate of public convenience and)
 necessity to operate an automobile truck)
 line as a transportation company for the)
 carrying of freight between San Francisco,)
 Oakland, Berkeley, Alameda, Piedmont, : Application No. 9150
 Emeryville, Fruitvale, and Melrose, Calif-)
 ornia; also between Oakland and San Jose,)
 California, and the intermediate points)
 of San Leandro, Hayward, Niles, Center-)
 ville, Irvington, Warm Springs, Milpitas)
 and Wayne.)

In the Matter of the Application of)
 R. H. RASMUSSEN, J. C. SVANE and FRED LUDEKENS,)
 co-partners, doing business under the)
 fictitious name and style of San Fran-)
 cisco-Martinez Express Company and of)
 R. H. RASMUSSEN and J. C. SVANE, co- : Application No. 9360
 partners doing business under the fictitious)
 name and style of Santa Fe Express and)
 Drayage Company, to make permanent certain)
 temporary certificates and for permission)
 to abandon certain service and to transfer)
 an operative right.)

Harry A. Encell, James A. Miller, Myron Harris
 and Henry G. Tardy for Applicants.
 L. N. Bradshaw for Southern Pacific Company.
 Walter H. Robinson for Pioneer-Gibson Express
 and Highway Transport Company.
 A. B. Tinning, District Attorney of Contra Costa.
 Gwyn H. Baker for Oakland-San Jose Transport Company.

BY THE COMMISSION.

O P I N I O N

The above entitled applications are for permission to make permanent certain temporary certificates heretofore issued by the Railroad Commission of the State of California, to abandon certain service rendered between Oakland and San Jose under temporary certificate and to transfer an operative right between San Francisco and Oakland and Martinez, Port Costa and Crockett.

A public hearing was held before Examiner Satterwhite on November 26, 1923, at San Francisco, at which time the matters were submitted and they are now ready for decision.

Under Decision No. 12268 in Application No. 9150, dated June 25, 1923, R. H. Rasmussen, J. C. Svane, co-partners, were granted a temporary certificate of public convenience and necessity authorizing the operation of an automotive truck line as a common carrier of freight between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose and between Oakland and San Jose, California, serving the intermediate points of San Leandro, Hayward, Niles, Centerville, Irvington, Warm Springs, Milpitas and Wayne. Said temporary certificate was granted to the co-partnership in lieu of a previous operative right in the name of C. D. Rasmussen, doing business under the fictitious name of Santa Fe Express and Drayage Company and S. and F. Auto Company, which operative right was revoked for cause. The co-partnership now asks for an order of the Railroad Commission making permanent a certificate of public convenience and necessity between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville and for the right to abandon and cease operation under the temporary certificate authorizing operation between Oakland and San Jose and intermediate points.

Applicants called a number of witnesses in support of their petition, and although all existing carriers in the territory in question were notified of the hearing, none of them entered a protest with respect to the establishment of the trans-bay service as hereinabove mentioned. Evidence was further introduced that the existing truck service operated by A. C. Woodward between Oakland, San Jose and intermediate points was sufficient to adequately and efficiently care for freight traffic over such route and that there was no necessity for the future continuance of operation by the co-partnership of Rasmussen and Svane.

Applicants further ask to make permanent the temporary certificate granted to a co-partnership consisting of R. H. Rasmussen, J. C. Svane and Fred Ludkens, under Decision No. 12267, in Application No. 9149, dated June 25, 1923, authorizing operation of automotive truck service as a common carrier of freight between San Francisco and Oakland on the one hand and Crockett, Port Costa and Martinez on the other, also to transfer such permanent certificate of public convenience and necessity from the three co-partners to Fred Ludkens as an individual.

Evidence was given by various business men with reference to the necessity for continuance of this service. The granting of a permanent certificate was opposed to the extent that protestants contended that the service was required solely as a limited package service and that shipments should not be handled in excess of limited maximum in weight. These protestants also called various business men from Martinez, Crockett and Port Costa who testified as to the adequacy of the existing service of the boat and rail lines and stated that during the years they had been in the retail business in the above named towns they received practically all of their consignments via boat or rail due to the fact that the rates were considerably

lower than those charged by applicant herein. In accordance with the request of the presiding Examiner, joined in by interested parties, applicant Iudekens submitted a statement showing shipments handled by his truck line in excess of 200 pounds each during the period of approximately seven months last past. This exhibit shows a total of 450 shipments during such period ranging in weight from 201 to 6000 pounds each. From the number of such shipments handled each day on one round trip schedule, it would appear from past operations under the temporary certificate that there does exist a demand for this truck line handling such shipments in excess of 200 pounds offered by merchants who patronize the service, particularly in view of the fact that if such merchants or receivers of freight are in need of the expeditious service given by applicant sufficient to warrant them in paying the rate charged by applicant as against the rate that they would be obliged to pay by either rail or boat, the service of applicant must be in demand or otherwise such shipments would not have moved by truck.

A revised rate schedule was also submitted by applicant Iudekens which clarifies ambiguities in his previous tariffs, although not increasing any of his rates.

We are of the opinion and find as a fact that public convenience and necessity require that the temporary certificate between San Francisco and East Bay Points as set forth above be made permanent, - further, that applicants be permitted to abandon truck service between Oakland and San Jose, the operative rights between San Francisco, Oakland, Port Costa, Crockett, and Martinez be transferred to applicant Iudekens and an order will be entered accordingly.

O R D E R

A public hearing having been held in the above entitled proceeding, 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 R. H. Rasmussen and J. C. Svane, co-partners, of an automotive truck line as a common carrier of freight between San Francisco, Oakland, Berkeley, Alameda, Piedmont and Emeryville, and,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is granted, subject to conditions hereinafter prescribed.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FURTHER DECLARES that public convenience and necessity require the operation by R. H. Rasmussen, J. C. Svane and Fred Ludkens of an automotive truck line as a common carrier of freight between San Francisco and Oakland on the one hand and Port Costa, Crockett and Martinez on the other, and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is granted, subject to conditions hereinafter prescribed.

IT IS HEREBY FURTHER ORDERED THAT R. H. Rasmussen, J. C. Svane, co-partners, be and they hereby are authorized to abandon and discontinue temporary truck service between Oakland and San Jose and intermediate points as provided for under Decision No. 12268 in Application No. 9150.

IT IS HEREBY FURTHER ORDERED that the orders in Decision No. 12265 in Application No. 9150 and Decision No. 12267 in Application No. 9149, be, and the same hereby are revoked and annulled.

IT IS HEREBY FURTHER ORDERED that R. H. Rasmussen, J. C. Svane and Fred Ludkens, co-partners, be and they hereby are

authorized to transfer to Fred Iudekens the certificate of public convenience and necessity herein established authorizing the operation of automotive truck service for the transportation of freight between San Francisco and Oakland on the one hand and Crockett, Port Costa and Martinez on the other, and

IT IS HEREBY FURTHER ORDERED that applicants herein shall file their written acceptance of the respective certificates granted to them within a period of not to exceed ten (10) days from date hereof; that applicants Rasmussen and Svane, co-partners, file their schedule of rates and time schedules covering the territory herein authorized to be served, said tariff and time schedules to be identical with the tariff of rates and time schedules now on file with the exception that tariff of rates and time schedules covering service over the route herein authorized to be abandoned shall be omitted therefrom; that applicant Fred Iudekens shall file in his own name within a period of not to exceed twenty (20) days from date hereof, tariff of rates identical with the amended exhibit filed in this proceeding and time schedules identical with the time schedules at present on file in the name of Martinez and San Francisco Express, covering points authorized to be served under certificate herein established, all service rendered under temporary certificates hereinabove revoked to be discontinued upon the effective date of new tariff filings.

1. 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.

2. No vehicle may be operated under the certificates

herein, unless such vehicle is owned by certificate holder or holders or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 28th
day of January, 1924.

C. Leary
H. B. ...
Dwight Martin

Commissioners