

Decision No. 13639

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of WALTER J. GEHRES for certifi- )  
cate of public convenience and )  
necessity to operate freight and ) Application No. 9424  
baggage service between Coachella )  
and Los Angeles and Harbor points. )

Thomas C. Whitlock for Applicant.  
L.C. Zimmerman for Southern Pacific Railway,  
Protestant.  
T.A. Woods and M. Thompson for American Rail-  
way Express, Protestant.  
C.E. Tribit, Jr., for Coachella Valley Trans-  
portation Company, Protestant.  
Phil Jacobson and H.N. Blair for Hodge Trans-  
portation System, Protestant.  
Phil Jacobson for Rex Transfer Company, Los  
Angeles and San Pedro Transportation  
Company and A.J. Happe, Protestants.

BY THE COMMISSION:

O P I N I O N

Walter J. Gehres has applied to the Railroad Commission for a certificate of public convenience and necessity to operate freight and baggage service between Coachella and Los Angeles and Harbor points.

Public hearings herein were conducted by Examiner Williams at Indio and Los Angeles.

Applicant proposes service between Los Angeles and Los Angeles Harbor and Beaumont and Coachella, as terminals, and Banning, Cabazon, Whitewater, Palm Springs and Indio as intermediate points. At the hearing applicant stipulated that he would re-

ceive no consignments less than five tons. Applicant also stipulated that he would perform no service between Los Angeles and Beaumont. He offers equipment of five trucks and trailers of an aggregate capacity to about twenty-five tons.

The rates proposed are set forth in Exhibit "A" attached to the application. A special commodity rate is offered for building material moving from Los Angeles, the transportation of which the applicant seeks as a balancing back-haul there being no movement of these commodities westward. The operation is to be conducted without schedule and on demand only and service is offered to all points within one mile of either side of the route without additional charge, except that portion of the route between Beaumont and Los Angeles where no intermediate service is proposed.

In support of the application applicant produced D. H. Gates, President of the Board of Trustees of the City of Banning and manager of the Banning Canning Company, D. A. Innes, proprietor of the Banning Lumber Company, Frank M. Butler Banning fruit grower and buyer for Los Angeles canneries and commission men, F. E. White, secretary of the Banning Chamber of Commerce and Philip Druby, president of the Board of Trustees of the City of Beaumont and a fruit shipper and also a purchasing agent for Los Angeles concerns. From their testimony it appears that seasonal service has been rendered by the applicant for at least two years past under the belief that it was a service not requiring certificate from this commission. Upon receipt of notice from this commission that such service was within the scope of Chapter 213 of the Acts of 1917, as amended, by Chapter 208 Act

of 1919 applicant conformed to the law by making application now under consideration. Those witnesses also testified that the service of Gehres had been unusually useful during the peak of the deciduous fruit movement and that there was need for the continuation of the service heretofore rendered and that the rates offered by applicant were satisfactory.

They also testified that Gehres was in a local position to furnish equipment immediately, upon demand, and transport larger quantities to market or to the harbor by an over night service which the protestant Southern Pacific Railway Company does not provide; that the transportation methods of this protestant are ineffective in emergencies, as applicant, by reason of the location of his equipment at Banning, is able to transport cargoes to Los Angeles or the harbor on short notice during the night hours while rail methods require from 60 to 72 hours frequently to obtain the equipment and 24 to 48 hours additional to deliver shipments by rail at Los Angeles or the harbor. According to these witnesses in excess of 2000 tons of deciduous and other fruits are shipped from Banning by truck and 750 tons or more from Beaumont.

Applicant also introduced in his behalf M.D.Prince a cotton buyer from Coachella who testified that baled cotton shipped from the Coachella Valley to Los Angeles sometimes requires ten days to obtain cars and deliver the same to Los Angeles Harbor. This witness estimated the cotton crop of the district about Coachella as about 625 tons. Much of this crop he said had been shipped by truck to the advantage of the shippers.

Applicant also produced D.A.Innes of the Banning Lumber Company whose testimony was that applicant had hauled lumber

from Los Angeles to Banning in emergencies but that the large movement of lumber to him was by rail and the rail movement was satisfactory, except in emergencies. Applicant had also made for witness deliveries of lumber and building material to Coachella Valley points.

In addition applicant produced resolutions endorsing his proposed service from the Beaumont Chamber of Commerce, the Trustees of the City of Beaumont, from thirteen members of the Co-operative Fruit Grower's Association of Banning and from the Banning Chamber of Commerce. These documents were presented by proper officials of the organizations and no testimony disputing their authenticity introduced.

The application was protested by the Southern Pacific Railway Company which maintains two daily freight trains in each direction serving all the points applied for by applicant. The rates of this protestant are considerably lower, on the classes and commodities applicant proposes to handle, than are those of applicant. The rail service, however, requires delivery to the cars for loading and transportation from cars at point of distribution, a service which is included in the pick up delivery offered by applicant. It was the testimony of Charles M. Murphy, Assistant District Superintendent of this protestant that car load quantities are transported to Los Angeles in from 17 to 19 hours from Coachella Valley points and from Beaumont and Banning to Los Angeles in 16 hours. This protestant introduced Geo. M. Beach a rancher of Coachella and a cotton grower who testified that the protestant's service was very satisfactory for L.C.L. shipments as well <sup>as</sup> car load shipments and that the service of the American Rail-

way Express Company, protestant, operating over the Southern Pacific service, was also satisfactory. This witness testified as to the satisfactory shipments of onions by car load lots and dates and grapes in quantities from 500 pounds to 1 ton. Protestant also introduced Richard W. Blackburn who testified to the satisfactory service of this protestant.

The application was also protested by A. J. Happe who holds a certificate for restricted demand service between Los Angeles and Beaumont. Happe testified that he has seven trucks and four trailers available for service and ability to provide any additional equipment necessary and that within two hours after any call he could dispatch any amount of equipment from Redlands, his headquarters, to Beaumont. In support of this protestant introduced A. R. Bixby of Beaumont, buyer for Rivers Brothers Company of Los Angeles who testified that the Happe service had always been satisfactory. He further testified that applicant had once hauled a consignment for Rivers Brothers from Banning to Los Angeles but that he had not afterwards been employed because one load of peaches was not transported by applicant.

Hodge Transportation System, protestant, holds certificate for demand service in quantities of 3 tons or more over the route proposed by applicant and including Beaumont, Banning, Whitewater and Cabazon. It was the testimony of witnesses for applicant that the service of this carrier was unsatisfactory because protestant maintains no office at either Beaumont or Banning and shippers are required to telephone either to his office at Redlands or Los Angeles and that equipment could not be provided promptly enough to meet the necessities of over

night shipment to take advantage of market conditions at Los Angeles. It was also the testimony of witnesses that they either did not know of the existence of the Hodge service or if they did had not felt that it could be of value to them under the conditions.

The application was also protested by the Coachella Valley Transportation Company which has an operative right of several years existence between Los Angeles and points between Redlands and Mecca. Exhibits filed by this protestant show that the preponderance of its tonnage is from Los Angeles to points served by it and that the westward tonnage represents only a small proportion of the capacity of the equipment in use. It is evident from the exhibits that this protestant has been unable to secure a balancing back-haul sufficient to make the west bound operations profitable or self sustaining but considering that this protestant has been in the field prior to any other existing motor operator this failure must be charged more to the operator than to the shippers and support for this conclusion is found in the testimony of several witnesses, that this carrier's service was on schedule and much slower than is required in emergencies. According to exhibits protestant has increased and improved its equipment to a total capacity of 32.5 tons, including capacity of four trailers. The establishment of proper commodity rates by this protestant ought to attract considerable volume to make use of surplus equipment west bound.

From the testimony produced by applicant in this proceeding we think the necessity for the establishment of this

service at Banning and points east of Banning to and including Cabazon has been shown, considering that his offer of service is limited to minimum quantities of five tons but that no sufficient showing has been made that the service rendered by protestant Happe is not adequate and convenient for Beaumont in the fruit season or that the service of other carriers is inadequate for other points. The service offered by applicant is an expedited emergency service not available to shippers by any other carrier and his location at Banning is essentially advantageous to shippers at Banning and its tributary territory east to Cabazon. The tonnage restriction does not admit of any measurable injury to any other carrier. Basing our finding on the record in this proceeding we therefore find as a fact that public convenience and necessity require the establishment of the service as proposed by applicant between Los Angeles and Los Angeles Harbor and Banning and Cabazon and points intermediate to Banning and Cabazon but not to Beaumont and that applicant's service be restricted to fruits and vegetables westward and to building materials and lumber eastward.

#### O R D E R

Walter J. Gehres having made application to the Railroad Commission for a certificate of public convenience and necessity to operate freight and baggage service between Coachella and Los Angeles and Harbor points, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HEREBY DECLARES that public convenience and necessity require the service as proposed by applicant for the transportation of fruits and vegetables westward from Banning and Cabazon and points intermediate within one mile of route on either side to that portion of the City of Los Angeles bounded by Macy Street, Sunset Boulevard, Figueroa Street, Slauson Avenue and the Los Angeles River and that portion also known as the Los Angeles Harbor district; and building materials and lumber from Los Angeles and Los Angeles Harbor district, as herein described, to Banning and Cabazon and points intermediate and one mile on either side of the route but not between Los Angeles Harbor and Los Angeles locally, over and along the following route,

via Valley Boulevard to Colton  
thence over Colton-San Bernardino road  
to San Bernardino and thence over state  
highway to Banning and Cabazon returning  
over identically the same route

and that a certificate of public convenience and necessity therefor be and the same hereby is granted subject to the following conditions:-

1. - That applicant, Walter J. Gehres shall file within fifteen (15) days from date hereof, his written acceptance of the certificate herein granted, and shall file within thirty (30) days of the date hereof, duplicate tariff of rates and time schedules, in accordance with General Order No. 51 of the Railroad Commission, and shall begin service within sixty (60) days from date hereof.
11. - That applicant, Walter J. Gehres, shall not sell, lease, assign, or discontinue the service herein authorized, unless such sale, lease, assignment, or discontinuance shall have been authorized by the Railroad Commission.



III. - That no vehicle shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 3<sup>rd</sup>  
day of June, 1924.

C. L. Seaver

H. M. Brundage

Dwight Martin

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Commissioners.