

Decision No. 13838

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of F. M. HODGE, L. E. MERSEON)
and H. A. ROSE for certificate of)
public convenience and necessity)
to extend present motor freight)
service into Riverdale via Goshen,)
California from or to Los Angeles)
and intermediate points.)

Application No. 9563

ORIGINAL

Devlin & Brookman, by Douglas Brookman and Harry N.
Blair for applicants.
L. N. Bradshaw, for Southern Pacific Railway, protestant.
Edward Stern, M. W. Dorst and G. S. Reid, for American
Railway Express, protestant.
N. H. Asp and F. J. Heid, for Atchison, Topeka and Santa
Fe Railway Company, protestant.
B. B. Price, for Kings County Chamber of Commerce,
protestant.
A. Verkuy, R. L. Waltz and Frank Johnson for Kings
County Farm Bureau.
F. P. Graves, City Attorney for City of Hanford; also
for Hanford Board of Trade, protestants.
J. H. Brothers, for Stratford Chamber of Commerce,
protestant.
Clyde Potter, for Lemoore Chamber of Commerce, protestant.
Fred Carroll, for Corcoran Chamber of Commerce,
protestant.
W. R. McKay, for County of Kings Supervisors, protestant.
A. R. Linn, for Hanford Board of Trade, protestant.

BY THE COMMISSION:

O P I N I O N

F. M. Hodge, L. E. Merseon and H. A. Rose, co-part-
ners doing business under the fictitious name of San Joaquin
Valley Transportation Company have made application to the
Railroad Commission for a certificate of public convenience
and necessity to extend present motor freight service between
Fresno and Los Angeles into Riverdale via Goshen.

Public hearings were held by Examiner Williams at Fresno and Hanford.

In this proceeding applicant asks an extension of the certificate under which it now transports freight between Fresno and Los Angeles in order that service may be given to Riverdale via Goshen, serving intermediately Lemoore, Armona and Hanford; also to extend its service into Wasco via Famosa and points intermediate between Famosa and Wasco; also from Tulare to Corcoran, and points intermediate; also to route its loaded trucks over the state highway between Tulare and Delano each of the services involving the right to serve five (5) miles on either side of the highway traversed.

Applicant proposes the same rate structure for the distances traversed as is now in use in its other operations between Fresno and Los Angeles and offers the same equipment used in this service. The service is offered upon demand only, subject to twenty four hours notice and is limited to shipments of three tons or more. At the hearings applicant withdrew its request for a certificate for the extensions to Wasco and to Corcoran. The request for rerouting all of trucks in transit between Tulare and Delano was not opposed by any protestant and is intended only as a means of expediting transportation of butter, in truck loads, between Fresno and Los Angeles. There was no proof that service to points intermediate to Tulare and Delano or on either side of the highway is required.

The application resulted from a demand on the part of the Riverdale Creamery for the transportation, by truck, of butter and cream from Riverdale to Los Angeles. To temporarily meet this demand applicant leased equipment to the creamery

which provided its own drivers and established this method of transportation to the Los Angeles market. Applicant at once filed the application herein for authority to serve, not only Riverdale but other points where creamery industry exists among them being, Armona, Lemoore and Hanford, with its full service as established over its other routes.

At the hearing at Fresno applicant by reduction amended its proposed rates to accomodate oneton or more from either Riverdale or Hanford in view of a probable back-haul from Los Angeles.

Applicant produced as witnesses in his behalf C. L. Mitchell, efficiency manager of the Challenge Creameries of Los Angeles, consignee of a large portion of the shipments from Riverdale and Lemoore; P. J. Spaletta, manager of the creamery at Lemoore; J. B. Miller, manager of Swift and Company at Hanford; Maurice F. Aufderheide, manager of the Western Auto Supply Company store at Hanford; W. L. Scally, manager of a mercantile business at Lemoore and a large shipper of eggs, and O. L. Higdon of Riverdale, operating a freight truck line between Riverdale and Fresno. No witness was introduced representing shippers at Riverdale. These witnesses testified that the service proposed by applicant would be useful to them in the shipment of products of the creameries to Los Angeles or the shipment of eggs or other products and also for the purpose of receiving shipments from Los Angeles. Spaletta testified that he had available two and one-half to three tons of butter from the Lemoore creamery. Some of these witnesses used the service of applicant during periods of labor trouble with the

rail carriers and other emergencies, by delivering consignments at points on his existing route. They testified that the service was satisfactory. The importance of the butter, egg and poultry movement to these witnesses was the ability of the truck to reach the Los Angeles market directly with opportune delivery thus gaining all the advantages from time to time of expeditious delivery to a fluctuating market and which is not, in their judgment, satisfactorily provided by the process of shipment by freight or express. Mr. Spaletta and Mr. Scally testified that they would be willing to pay higher rates by truck than by freight or express because of the market advantages gained by prompt delivery.

Mr. Hodge, manager of applicant's service testified that since the installation of leased truck service to the Riverdale Creamery in December, 1923, there had been transported between Riverdale and Los Angeles 527,698 pounds of butter, 640,000 pounds of milk and cream and 99,000 pounds of condensed milk. He testified further that the creamery maintained by Swift and Company at Hanford has offered him approximately two tons daily and that he had also received a demand from the Lucerne Creamery at Hanford. He also testified that his service had hauled from other points hundreds of tons of eggs satisfactorily. This witness also testified ^{concerning} ~~that~~ the successful handling of approximately 2,650,000 pounds of butter from the Danish Creamery at Fresno to the Challenge Creamery at Los Angeles under his authorized operation between these termini. This testimony ^{was offered} /to show that it is practicable to transport such commodities by over night service at distances of more than two hundred miles during weather of high temperature.

The application was protested at the original hearing by the rail carriers, particularly the Southern Pacific Railway and American Railway Express Company and the validity of the leased service by which the Riverdale product was being transported to Los Angeles was questioned. Applicant, however, agreed to file a copy of this lease with the commission for use in this proceeding and inspection of this form shows it to be consistent with the requirements of the commission respecting such leases.

Protestant Southern Pacific Railway filed an exhibit showing that all of its rates between Riverdale, Lemoore, Armona and Hanford are lower than rates proposed by the applicant herein, ranging from three cents to fifty five cents less to all points applicant seeks including Los Angeles, according to class distinction. This exhibit was not disputed by applicant. Daily freight service is given by this protestant from Riverdale, Armona, Lemoore and Hanford to Los Angeles.

Protestant American Railway Express Company maintains express service over four trains daily from the points sought by applicant to Los Angeles via Goshen. Two of these services are on the Riverdale branch which gives Riverdale and Hardwick one delivery service in each direction and two additional services for all other points. In addition this protestant introduced G. S. Reed its district superintendent of service between Fresno and Bakersfield to show that pick-up and delivery is maintained at Riverdale, Lemoore and Hanford by protestants and that there had been no complaints as to the service rendered in this respect. Delivery is also made by this protestant at Los Angeles. Through

this witness also it was established that this protestant has maintained a special refrigerator car service from Hanford to Los Angeles since 1912 for the transportation of creamery products. Cream leaving by this service is carried at the lowest rate and empty containers are returned to consignors without charge. He further testified that the cars are not loaded to capacity and that a considerable additional volume could be carried. The refrigerator car has a capacity of thirty tons. This refrigerator car is sent from Hanford in the morning to Armona and Lemoore where the consignments are delivered to it and it is carried in the morning to Los Angeles leaving at 7:31 A.M. and reaching Los Angeles at 6:20 in the evening. This protestant introduced G. C. Aydelotte of Hanford in the business of ice manufacturing, fruit and dairying who testified that he ships about ten cars a week by freight and otherwise over the rail lines and that the service was abundant and satisfactory. He further testified that the railroads by their provision of equipment and operating schedules for this region had built up its agricultural and dairying development particularly in Kings County in the last fifteen years and had always provided ample service.

B. B. Price of Hanford, secretary of the Kings County Chamber of Commerce testified that the chamber had received no complaints of the service of the Southern Pacific Railway or the American Railway Express and was abundantly equipped with five daily services provided by these carriers. He further testified that the establishment of a competitive truck service would injure the established rail service and cause curtailment

which would be a distinct industrial disadvantage to Hanford and Kings County. He further testified that the supervisors and other active official and commercial bodies were seeking to curtail truck use on the highways of Kings County which he said were being ruined by hauling heavy loads over them.

Similar testimony was given by Frank Johnson of Hardwick, a farmer and stock raiser representing a meeting of the members of the Farm Bureau at which eleven were present, and by A. Verkayl, director of the Farm Bureau. Mr. Verkayl expressed the belief that the admission of competitive truck service paralleling the rail lines in Kings County would embarrass the Farm Bureau in its efforts to have transcontinental rail rates reduced, application for which is now pending before the Interstate Commerce Commission. Similar testimony was given by A. R. Linn, secretary of the Hanford Board of Trade.

After the original hearing and submission at Fresno this Commission was advised by a number of civic and commercial organizations in Kings County that they had not received notice of the hearing at Fresno and that the operation proposed by applicant vitally effected the agricultural and industrial affairs of Kings County. They requested an opportunity to present objections to truck service being established. Upon this showing the commission set aside submission made at Fresno and application herein was reset for a further hearing at Hanford.

At this hearing many witnesses were introduced by these organizations all for the purpose of preserving, without competition, the railroad and express service now existing.

Resolutions were presented by the Board of Supervisors of Kings County, the Corcoran Chamber of Commerce, the Lemoore Chamber of Commerce, Stratford Chamber of Commerce, Trustees of the City of Hanford and the Kings County Farm Bureau, all protesting against the admission of a truck line through Kings County to Riverdale, first, on the ground that the rail service was adequate and should not be jeopardized by competition; and, second, that it was a general desire to prevent injury to the highways by trucking operations. In support of these ^{objections}/protestants offered the following witnesses; F. C. Carroll, president of the Corcoran Chamber of Commerce; M. C. Carter, chairman of the Board of Supervisors of Kings County; T. E. Cochrane, a supervisor and secretary of the Cotton Grower's Association; Joe D. Biddle of Hanford, a shipper of live stock from this region for thirty seven years; Earl W. Weiler of Lemoore, dealer in gents furnishings; John E. Brothers of Stratford, director of the Chamber of Commerce and merchant, warehouseman and farmer; H. Herzberg, Hanford, manager of Kutner-Goldstein Company, general merchandise, groceries and grain, having a business established in Hanford for forty three years; Arthur C. Keran, assistant manager Kings County packing house at Armona; M. J. Soares, Hanford, clothing and shoes; A. W. Bass, trustee of the City of Hanford; Strother B. Lovelace, Hanford clothing and furnishing; J. W. Gaiberson, Hanford, president of the Kings County Chamber of Commerce; W. C. Gallaher, Hanford, meats and groceries. Nineteen other witnesses were present to give testimony along the same lines as those named, but their testimony was admitted by stipulation of applicant.

In addition protestant Southern Pacific Railway, through testimony of A. G. Schmitt showed that this protestant

would establish refrigerator car service from Lemoore to Los Angeles beginning within a few days after the hearing (April 4th, 1924).

Protestant Atchison, Topeka and Santa Fe Railway, through A. R. Woods, trainmaster of its San Joaquin Valley district, testified that its freight service was so arranged that shipments delivered to it at Los Angeles or at Kings County points before 4 P.M. one day would be ready for delivery at destination by 7 A.M. the second day following and that two express services daily are maintained between Hanford and Los Angeles.

It further developed through testimony by F. M. Hodge, manager of applicant company that its lease arrangement with the creamery at Diverdale no longer existed and that this shipper had made leasing arrangements with another truck owner to perform the same service which applicant's equipment had been performing.

Opposition to the establishment of any truck service over the highways of Kings County was based partly on the ground that such authorization would tend to injure and destroy the highways. This objection on the part of protestants we regard as the least worthy of consideration for the reason that Kings County now has within its own borders, according to testimony admitted in the record, 234 trucks, according to registration with the Motor Vehicle Department. The addition of two or three trucks by applicant would not in our judgment add to the danger of destruction of the highways. Under the Motor Vehicle Act load restrictions are imposed that obligate authorized truck services to respect limitations, which limitations are intended to protect different grades of highway from the injuries due to excessive loading.

In view of all the facts as developed at the hearings it appears that the industrial and agricultural representatives of Kings County are practically united in their opposition to the authorization of any competitive truck service that may result in any change in the present established rail and express service as given in the territory sought to be served by the applicants and upon which service such territory is depending for its proper development and prosperity. It also appears that applicants have failed to prove a necessity for the establishment of the desired service to an extent that would justify the Commission making its order granting the desired certificate and in the absence of such affirmative showing this portion of the application must be denied particularly when considered in connection with the protest as presented by the representatives of the industrial and agricultural interests.

As to that portion of the application for permission to operate through trucks over the state highway between Delano and Tulare and to serve points between Delano and Tulare and five miles on either side of the state highway, restricted only to dairy products and poultry, it appears that this routing should be permitted for the purpose only of conveying such commodities originating at Tulare or points north destined to Delano or points south and vice versa and as a mere privilege of shortening the route in order that more expeditious delivery of such commodities to the market may be made and to that extent only the application be granted.

O R D E R

F. M. Hodge, L. E. Mershon and E. A. Rose, co-partners doing business under the name of the San Joaquin Valley Transportation Company having made application to the Railroad Commission for a certificate of public convenience and necessity to extend present motor freight service from Riverdale via Goshen to Los Angeles and intermediate points and to reroute its operation as to loaded trucks between Delano and Tulare, public hearings 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 do not require the service proposed by applicant between Goshen and Riverdale and that the application therefor be and the same hereby is denied.

IT IS FURTHER DECLARED that public convenience and necessity require the rerouting of applicant's service between Fresno and Los Angeles by permitting loaded trucks to operate over the state highway between Tulare and Delano providing same contain only dairy products and poultry originating or destined to Tulare or north of Tulare or Delano or south of Delano and that no service be given to intermediate points along the state highway, or on either side thereof, between Tulare and Delano, and that a certificate therefor be granted subject to the following conditions:

1. That applicants, F.M.Hodge, L. E. Mershon and E.A.Rose shall file within fifteen (15) days from date hereof, their written acceptance of the certificate herein granted, and shall begin service within sixty (60) days from date hereof.

11. - That applicants, F. M. Hodge, L. E. Mershon and H. A. Rose, 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.
111. - That no vehicle shall be operated by applicants unless such vehicles are owned by said applicants, or are leased under an agreement satisfactory to the Railroad Commission.

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

C. A. Seaver

H. A. Brundage

Ernest M. Watson

J. T. Whitney
Commissioners.