

Decision No. 14291

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 W. D. THOMPSON, for certificate of)
 public convenience and necessity to)
 operate auto freight truck service)
 between Los Angeles, Wilmington,) Application No. 9488
 San Pedro, Van Nuys, Pomona, Ontario,)
 Wineville, on the one hand and cer-)
 tain Imperial Valley points on the)
 other hand.)

In the Matter of the Application of)
 Imperial Valley Los Angeles Express,)
 for certificate of public conven-)
 ence and necessity to operate a) Application No. 9630
 Motor Express service between)
 Imperial Valley points and Los)
 Angeles, California.)

- Tipton & Cailor by Will S. Tipton for
 W. D. Thompson, Applicant.
- Douglas Brookman and Harry W. Blair for
 Imperial Valley-Los Angeles Express,
 Applicant.
- E. E. Gogarty for Southern Pacific Company,
 Protestant.
- T. A. Woods, Mark Thompson and Edward Stern
 for American Railway Express, Protestant.
- R. E. Wedekind for Pacific Electric Railway,
 Protestant.
- Phil Jacobson for Franchise Motor Carriers'
 Association, Protestant.
- P. C. Thacker for Pioneer Truck & Transfer
 Company, Protestant.
- Henry W. Coil and E. B. Criddle for Holton
 Interurban Railway, Protestant.
- W. H. Gibson for Borderland Express,
 Protestant.

BY THE COMMISSION:

O P I N I O N

In Application No. 9438, W. D. Thompson has made application to the Railroad Commission for certificate of public convenience and necessity to operate auto freight service between Los Angeles, Wilmington, San Pedro, Van Nuys, Pomona, Ontario and Wineville, on the one hand, and Imperial Valley points on the other hand.

In Application No. 9630, F. M. Hodge and J. D. Kwis, a co-partnership, doing business under the fictitious name of Imperial Valley-Los Angeles Express, have made application to the Railroad Commission for certificate of public convenience and necessity to operate a motor express service between Imperial Valley points and Los Angeles.

Public hearings herein were conducted at El Centro and Los Angeles by Examiner Williams, and the applications were, by the stipulation of all parties, consolidated for the submission of testimony and for decision. At the conclusion of the hearings, time for briefing was given, upon the filing of which briefs the matter herein was submitted and is now ready for decision.

The hearings conducted were somewhat exhaustive in character as to the existing and proposed means of transportation between Los Angeles and Imperial Valley points, requiring eight

days for the taking of testimony. During that time approximately seventy witnesses were examined and numerous exhibits were filed by parties at interest. The volume of all testimony and all exhibits is so large, that for the purpose of deciding the applications it is unnecessary to review same in detail. Applicants produced in their behalf about thirty witnesses; the remainder were called by protestants, Southern Pacific Company, American Railway Express Company and Holton Interurban Railway. None of the Automobile carriers represented in the appearances introduced any testimony in opposition to the applications.

Applicant Thompson proposes service between Los Angeles and Imperial Valley points, including Oasis, Westmoreland, Brawley, Imperial, El Centro, Heber and Calexico, three times weekly, leaving Los Angeles at noon and reaching Calexico, the Imperial Valley terminus, at 11 A. M. the day following, and leaving Calexico at 3 P.M., reaching Los Angeles at 12 noon the day following. This service included pick-up at Wilmington, San Pedro, Van Nuys, Pomona, Ontario and Wineville, upon demand. This applicant proposes two schedules of rates, one a general freight classification with a general minimum charge of \$1.00, and the other a special commodity rate in lots of five tons or over, and including canned goods, sugar and cotton. Equipment to be used includes two 3-ton trucks, one 4-ton truck and three 5-ton trailers, a total capacity of nineteen tons, manufacturers rating.

Testimony in behalf of this applicant was received at El Centro, where some readjustment of his rate schedule was proposed by amendment. Applicant testified that he has been five years in the trucking business, hauling from Los Angeles to El Centro, principally cargoes of various commodities for the Channel Commercial Company. This service was conducted upon a per-trip rate. Applicant admitted that he had done hauling for other shippers than the Channel Commercial Company, and had received cargoes on return movement from Imperial Valley to Los Angeles. He testified that he was able to provide such additional equipment as might be necessary, and that operation upon the basis proposed by him would cost approximately 15½ cents per track mile. He based this figure upon the rate he had charged the Channel Commercial Company, which was \$75.00 per round trip. Other capacity loads had been hauled at the same rate. Applicant testified that he had received many demands for his service, both in Los Angeles and in El Centro, and that he had hauled weekly from one to four loads, though occasionally a week elapsed without a load. Applicant proposed no deliveries without charges in Los Angeles, and no pick-ups less than one ton, but proposed to make deliveries at Imperial Valley points. Applicant explained that the schedule Exhibit B, proposed by him, was not intended for the transportation of perishable products, but he expected to provide such a service, leaving Imperial Valley points at 4 P. M. and reaching Los Angeles at 6 A. M. the following day.

On cross examination, applicant admitted that he had been hauling for the Crescent Creamery and the Coca-Cola Company at El Centro, and for other merchants of that place, but only in truck load lots. He also admitted that a sign at his place, 608 Mill Street, Los Angeles, announced his readiness to take shipments for Imperial Valley points; also that the trucks he offered to place in service were not paid for, there being a balance owing amounting to \$4,000.00.

- Applicant Thompson's proposed service was described by J. C. Wood, Manager of the El Centro branch of the Channel Commercial Company, as a big advantage in the point of pick-up and delivery. This witness testified that three trucks and two trailers of applicant had made deliveries to him the day previous. Witness explained that his company had paid as high as \$100.00 for a truck between Los Angeles and El Centro, according ^{to} the tonnage transported, and that applicant had received commodity requisitioned from the witness' company on wholesalers in Los Angeles, and had picked up and transported such commodities. This witness testified that applicant would receive the patronage of his branch, providing his rates were not too widely apart from the rail line freight rates, and that a 10 cents differential would not prevent the use of truck service.

The only other witness introduced by applicant Thompson, was B. John Wandrey, a grocer, of El Centro, who testified that he had very little truck shipment by applicant, as he received car lots at warehouses on railroad.

spurs. The witness testified that the lower rate would be the inducement to him to patronize applicant's service.

Applicant rested, and thereafter did not appear in the proceeding, either in person or by counsel. Applicant was then advised that the service he had been holding himself out to perform was one that required a certificate from this Commission, and that he should discontinue the same.

Applicant, Imperial Valley-Los Angeles Express, proposes an over-night express and freight service between Westmoreland, Brawley, Imperial, El Centro, Holtville and Calexico, and places intermediate to each and all, including points upon the highway five miles on either side thereof, and to Los Angeles. Rates proposed by applicant are set down in Exhibit "A", which will be discussed in another portion devoted to rates alone. Applicant proposes a service leaving Los Angeles at 5 P. M. daily (except Sunday and holidays), reaching Westmoreland at 3 A. M., Brawley at 4 A. M., Imperial at 5 A. M., El Centro at 6 A. M., Holtville at 7 A. M. and Calexico at 7 A. M. This schedule is reversed as to return movement, with the same difference in arrival and departure, progressively, from place to place, and allowing ten hours in transit from Westmoreland to Los Angeles. The speedometer distance between termini is 237 miles. Pick-up and delivery service is to be given within four blocks of carriers' highway route, including communities. For the particular service applicant proposes to devote two 2-ton high speed trucks, with special bodies and trailers, and such other equipment as

may become necessary. For demand business upon slower schedule, via the same route and five miles on each side thereof, and in quantities of not less than three tons, applicant adopts, without charge, the rates now in force under the San Joaquin Transportation Company, Freight Classification No. 1, C. R. C. No. 2.

Applicant, Imperial Valley-Los Angeles Express, produced C. E. Paris, manager of the Milk Producers' Association at El Centro, as a witness. He testified that this association, which maintains a large creamery at Holtville, ten miles east of El Centro, ships annually to Los Angeles, 2,750,000 pounds of butter (1923 record). This transportation, according to the witness, is now being conducted by a truck and trailer leased from F. M. Hodge, one of the applicants herein. Under this lease, butter is transported at night, and, according to the witness, the association has been successful in delivering promptly to the Challenge Creamery at Los Angeles, daily, the output of the creamery, returning from Los Angeles with all supplies required by the creamery, except salt. The witness expressed preference for the truck service over that of the rail carriers, because of the easy delivery at point of production and the direct delivery at point of destination, without the necessity of separate delivery to a rail carrier and separate delivery at the destination from the rail carrier. Before executing a lease for the truck service, the witness testified that the product of the creamery had moved in car load lots by rail three times weekly, but that it is now

moving in truck lots every other day with an average tonnage of about 9,000 pounds a day. Mr. Paris testified that he would prefer the truck service to rail service if he could thereby receive good daily delivery in Los Angeles. Mr. Paris further testified that he had suggested to applicant, Hodge, the necessity of establishing a truck service between Los Angeles and Imperial Valley, for the reason that the witness, through his connection with the Challenge Creameries, already knew of the transportation of butter by the San Joaquin Valley Transportation Company between Fresno and Los Angeles, a service which he considered comparable to the proposed service of applicant. The witness further testified that he had been in Imperial Valley since its earliest period of development, that he was familiar with its climatic conditions and travel routes, that he is experienced in the ice making and creamery business and that he believes ice refrigeration for motor truck transportation could be successfully maintained in the transportation of creamery products.

Applicant, F. M. Hodge, testifying in his own behalf, stated that a temperature of 53 degrees could be maintained in refrigerating trucks in the hottest weather to be expected in Imperial Valley or along the route to be traversed by the proposed service. He testified that butter, under refrigeration, is now and for months has been transported from Fresno to Los Angeles, a distance of 259 miles, in trucks refrigerated with ice chambers, and that the

climatic conditions and general conditions of travel are practically the same as would be encountered in transporting similar commodities from the Imperial Valley. The witness testified that night travel, and high speed, accomplished with lighter trucks having pneumatic tires, overcame climatic disadvantages. The distance between Los Angeles and Calexico termini, of applicant's proposed service, is 237 miles, while the distance to Holtville is about 233 miles. All other Imperial Valley points proposed by applicant are at less distance. Applicant expressed the belief, from his experience as an operator under authority of this Commission, that advantages of operation were superior between Imperial Valley and Los Angeles, because of the compactness of Imperial Valley points and road conditions between these points and Los Angeles, permitting an uninterrupted and rapid journey. Mr. Hodge stated that the schedule proposed of fourteen hours in transit to Los Angeles could be maintained, and that he had already demonstrated it by service between Holtville and Los Angeles, under lease, for several weeks.

Applicant, Hodge, presented as witness in his behalf, J. O. Gresham of Holtville, merchant; K. L. Engebretson of Meloland; LeRoy Holt, President of the First National Bank of El Centro and a resident of Imperial Valley for twenty-two years; V. R. Francis, a druggist of El Centro, also interested in the poultry business; G. C. Waits, General Freight Agent of the Hodge Transportation System and San Joaquin Valley Transportation Company; P. C. Thacker, Presi-

dent of the Pioneer Truck & Transfer Company of El Centro; E. B. Stivers, Manager of the Western Auto Supply Company at El Centro; J. C. Armstrong of Holtville, grocer; J. C. Cox, of El Centro, grocer; Max A. Brug, Westmoreland, general merchandise and dry goods; H. E. Hubbard, of El Centro, Manager of the Haydis Forwarding Company; Zan McDaniels, of El Centro, grocer, who has also had a store at Westmoreland; John C. Anderson, pharmacist, Calexico; J. F. Warner, Brawley, seed store; Harry L. Beck, Sales Manager, O. J. Weber Company, Los Angeles; R. O. Hazellier, Traffic Manager, Haas-Baruch Company, Los Angeles; A. P. Knopp, Traffic Manager, Western Auto Supply Company, Los Angeles; W. C. Rockwell, Traffic Manager, Brunswick Truck Company, Los Angeles; Ludy Langer, Los Angeles; M. E. Fond, wholesale poultry and eggs, Los Angeles; R. D. McLean, Traffic Manager, Pioneer Butter Company, Los Angeles, and others.

The substance of the testimony of all these witnesses is that there exists necessity or convenience for the operation of a truck service between Los Angeles and Imperial Valley points. The witnesses first named from Imperial Valley points, expressed the desire to have the benefit of an established and reliable truck service for their benefit; and those from the Los Angeles district largely represented consignors to Imperial Valley points, who generally testified that a reasonable service was needed, most of them having shipped as best they could by existing truck service, all without responsibility to or authority from this Commission, and that part of this necessity arose from the demand of

consignees at Imperial Valley points that merchandise and commodities be delivered to them at their places of business without necessity of local transportation from railroad termini. Nearly every witness gave in detail the conditions surrounding his own particular environment and the reasons why a service would benefit himself or others in his community. Shippers of Los Angeles, while making no complaint as to the facilities and adequacy of the rail service under its physical limitations, nevertheless, almost universally said a truck service of established and reasonable character was at least a great convenience to the shipping public.

Protestants, the rail carriers, introduced a number of witnesses from Imperial Valley points, whose testimony was also unanimous that the service of the protestants, Southern Pacific Company, American Railway Express Company and Holton Interurban Railway (in-so-far as the last named served them), was adequate, efficient, and that the rates were reasonable. Among these witnesses was R. E. Carey, Manager for the past six years of the Golden State Milk Products Company, of El Centro, whose testimony as to the shipment of butter and creamery products was to the effect that the rail service by freight was adequate, and that he knew of no need for a truck service. The product of this creamery is about one million pounds a year. Mr Cary also expressed his belief that creamery products could not be transported satisfactorily by truck between Imperial Valley points and Los Angeles.

Other witnesses introduced by protestants, included Allan C. Johnston, of El Centro, merchant; G. W. Broadbridge, of El Centro, music dealer; Earl E. Cavanah, of Calexico, grocer; J. C. Scott, of Calexico, grocer; L. M. Hutchinson, custom house broker, Calexico; Chris Westgard, Brawley, fruit shipper and producer; J. C. Archias, Brawley, seed merchant; A. N. Jack, Brawley, produce shipper; Ralph Stilgenbauer, Brawley, department store; Ernest C. Shelling, Brawley, grocer; E. W. Vessey, El Centro, wholesale produce; E. M. Baxter, Holtville, hardware; Carl Morford, Holtville, merchant, groceries and feed; A. B. Lester, Holtville, clothing; Harold Hain, Brawley, commission merchant; John Wofford, Holtville, grocer; E. W. Seybert, Brawley, produce shipper; J. J. Gallagher, produce shipper and groceries; E. J. West, Calexico, cotton shipper; John R. Zurcher, El Centro and Calexico, grocer; Arthur Rath, El Centro, seeds, poultry and milling; Geo. W. Anderson, El Centro, Brawley and Holtville, hardware; Chas. E. Sones, El Centro, lumber; R. Gould, El Centro, Manager Varney Bros. department store; John W. Johnstone, El Centro, grocer; E. A. Pusey, Imperial, grocer.

Witnesses for protestants, shippers of Los Angeles, included Frank J. Peacock, Proprietor of the Arrowhead Creamery at San Bernardino; C. W. Runge, District Passenger and Freight Agent of the Southern Pacific Company at El Centro; H. B. Kingsbaker, Los Angeles; Kingsbaker Bros., wholesale produce; J. E. Nash, Manager Klein-Simpson Fruit Company, Los Angeles; R. W. Symonds of Zahn-Symonds Company, wholesale

produce; Geo. L. Peiper, Traffic Manager, Rivers Bros.; wholesale produce; Frank Nazro, Sales Manager, Golden State Milk Company, Los Angeles.

Testimony was produced by all parties on the shipment of perishables by truck from Imperial Valley to Los Angeles. Protestants contend that it is impracticable to transport such products because of the heat, the distance, and the injury due to truck vibration. Imperial Valley produces large quantities of cantaloupes, asparagus, lettuce, tomatoes, watermelons, grapes, peas and strawberries. Testimony of protestants was to the effect that tomatoes, grapes, peas and strawberries would suffer such injury by truck transportation that they would be discounted in the Los Angeles market; also that fresh fruits, such as peaches, apricots, etc., which are shipped into the Valley from Los Angeles, would suffer similar shrinkage through injury. During the hearings, F. M. Hodge, one of the applicants herein, transported strawberries from Imperial Valley to George L. Piper of Los Angeles, a witness for protestants, which berries were delivered in good condition. Piper, however, testified that in warmer weather berries would be softer and probably would not "stand up". From the testimony herein on the practicability of truck shipments of perishables, this Commission cannot find that truck transportation cannot be accomplished without injury. It is the uncontradicted testimony of Hodge that soft fruits have been transported successfully from San Joaquin Valley to Los Angeles, a distance approximately the same as termini herein

proposed.

Applicant, Imperial Valley-Los Angeles Express proposes rates comparable with the operation of the service of the San Joaquin Valley Transportation Company, and adopts the rules and classifications of this company in their entirety. The proposed rates seem consistent with the operation proposed and adequate to maintain the operation. In general they appear non-competitive with freight rates, from terminal to terminal, but include free side-walk delivery in zones, for which rail shippers must pay a charge, but even with this added charge applicant's rates appear still to be higher than freight except at Holtville. In general, too, comparison of applicant's rates with those of protestant, American Railway Express Company, show competitively on shipments of 100 pounds or more, the minimum proposed by applicant, against a minimum of 10 pounds by express, applicant's rates being lower than those of protestant, American Railway Express Company. The following table presents a comparison of the rates by freight and express, and applicant's expedited L.C.E.

	1			2			*3			*4		
	R	T	E	R	T	E	R	T	E	R	T	E
W	113	117½	210	96	106½	158	79	95	158	68	80	158
B	108	122½	210	92	111½	158	75	99	158	65	84	158
J	111	127½	210	94	116½	158	78	103	158	67	88	158
E C	111	127½	210	94	116½	158	78	103	158	67	88	158
H	139	132½	210	116½	121½	158	98	107	158	82½	92	158
Cal	113	135	210	96	124	158	79	109	158	68	94	158

* No third or fourth class for American Railway Express Company.

Comparison of truck and express on the same basis is difficult, due to the wide variation of the classification of each. While exhibit No. 2 of protestant, American Railway Express Company, seeks to show that the rates proposed by this applicant are higher than those of the protestant, we cannot accept this exhibit as conclusive, for the reason that it is upon groups of commodities and built on a basis of average rates for the first four classes, in quantities of 100 pounds or less, while applicant's minimum of weight is 100 pounds and it is not reasonable to expect more than a minority of its hauls in first or second class, where rates are highest. But even if Exhibit No. 2 were acceptable, it would to a large extent only modify applicant's competitive aspect. Analysis of the rates of existing carriers show applicant to be from 10 per cent to 50 per cent higher than protestant, Southern Pacific Company, and 10 per cent or more lower than protestant, American Railway Express Company. Applicant's rates for slower service are about 10 per cent less on quantities of five tons or more.

Exhibit No. 5 of protestant, American Railway Express Company, purports to show a further disparity of rates with applicant. Selecting June 14th, and November 26th, as typical dates, this exhibit lists all shipments between Imperial Valley and Los Angeles by express on these dates, and by a comparison of what was charged by protestant, and what would have been the charge of applicant, seeks to show that applicant's charges would have cost the shipper \$118.78 more than those of applicant. This is a mathematical showing only, and ignores the fact that the preponderance of

shipments were below the weight minimum proposed by applicant.

Protestants, Southern Pacific Company and American Railway Express Company, in addition to testimony supporting the adequacy of their service, also set up a claim of res adjudicata, based on Decision No. 9685 on Application No. 6682 of T. Morgan, decided October 31, 1921. Protestants claim that by this decision they had obeyed the request of the decision, which said:

"We feel confident that the rail service can be very greatly expedited and that shippers can be better served by improving the rail service rather than by authorizing truck service."

It is their further contention, that applicants herein are seeking authority to perform a similar service as proposed by Morgan and that the decision above referred to binds this Commission adversely to any truck operation, especially as protestants have improved their service. Of course the contention of res adjudicata cannot be entertained for the reason that the showing in the instant proceeding is based on present conditions as reflected by the testimony herein, and there is no showing that conditions are fully comparable with those existing at the time of the former proceeding.

That the protestants have improved their service since this decision was promulgated is sustained by the testimony and not disputed by applicants. That it is now adequate for all shipping needs is the very question involved in the instant proceeding.

An inquiry into the present service, shows that

Southern Pacific Company (Exhibit No. 1) L. C. J. freight from Los Angeles to Imperial Valley points daily as follows: Brawley in 21 hours; Imperial 22 hours; El Centro 23 hours; Calexico 39 hours; and Westmoreland (semi-weekly) 40 hours. This is based upon 4 P. M. delivery at the Los Angeles terminal and ready for distribution at Imperial Valley terminal.

By Exhibit No. 2, the protestant shows what this means in the matter of improvement over 1921, and from which the following table showing the hours between terminals, is compiled:

	<u>1921</u>	<u>1922</u>	<u>1923</u>
Brawley	47 Hours	24 Hours	21 Hours
Imperial	68 "	24 "	22 "
El Centro	49 "	24 "	22 "
Calexico	64 "	40 "	39 "

Protestant, American Railway Express Company, (Exhibit No. 9), operates express cars over two passenger trains daily in each direction, and in addition maintained in the peak shipping season (June to August) special night express trains of from five to eight cars each between Imperial Valley points. Zoned free delivery is furnished at Brawley, Imperial, El Centro and Calexico, and also at Los Angeles. A special refrigerator car service to and from Imperial Valley points is maintained daily and its continuance is dependent on sufficient tonnage. The capacity of this car is seldom filled, and in fact this carrier could handle twice the tonnage in the equipment it now offers.

That this service, as well as that of the Southern Pacific Company, is now adequate and efficient, was the testimony of twenty-seven witnesses produced by these protestants, who, in part, also expressed belief that truck service might jeopardize the adequacy and efficiency of the rail service. If transportation to and from Imperial Valley were confined exclusively to rail service during the past three years, this fear might have basis. But the record in this proceeding shows that all of the witnesses of applicant, and about half of those produced by protestants, had been seeking truck service, or are now using it, or had used and discarded it. The testimony of applicant, Thompson, herein and his witnesses; the testimony of E. E. Hubbard, manager of the Truck Owners and Shippers terminal at El Centro, and many others, is convincing that since 1921 there had been continuous truck movement between Los Angeles and Imperial Valley points, unregulated and irresponsible to established authority, and that the tonnage being moved was of considerable volume. In other words, protestants have met competitive operation by trucks constantly during their period of improvement. Such a state of facts refutes the contention of protestants that their service cares for all shipments which are available, and justifies this Commission in refusing authorization. Rather is it testimony that shippers have sought and found the best available truck transportation, and that many of them now familiar with the duty and responsibility exacted by regulation from authorized carriers, prefer an authorized service possessing dependability

and responsibility, and whose acts may be questioned before the Commission. That such condition, obvious throughout the record, should be prolonged, when an applicant with clean hands and financial responsibility offers the shipping public reliable and necessary additional service, is repugnant to regulation in the interest of the public.

Protestant, Holtan Interurban Railway, maintains service between El Centro and Holtville, a distance of ten miles, for freight and express only. Its tonnage is almost wholly carload movement, about 2 per cent being less than carload. The class rates via this carrier and the Southern Pacific Company, between Holtville and Los Angeles, are much higher than from any other valley point, and are higher than the rates proposed by applicant herein on first class, but lower on other classes. The express rates range from \$1.21½ to \$2.65 per hundred pounds, as against applicant's 92 cents to \$1.32½.

The principal commodity moving from Holtville to Los Angeles, is butter. It was shown by the testimony of C. E. Paris this amounted in 1923 to 2,750,000 pounds. This commodity has a rate via express of \$1.35, (any quantity); via applicant \$1.00 (minimum 5000 pounds), and via freight \$1.00 (minimum 24,000 pounds).

Protestant, Holtan Interurban Railway contends that the establishment of applicant's proposed service will injure it seriously, although only 2 per cent of its traffic is less than carload. This movement is not, however, in preponderance destined to or from Los Angeles. The bulk of

this carrier's business is interstate, and its largest tonnage is watermelons, cantaloupe, grapes, lettuce and ice. According to its exhibit No. 2, it moved in 1923, five hundred and sixty six tons of butter, receiving therefrom a revenue of \$1,696.79 for its ten mile haul.

Protestant's Exhibit No. 1 shows a gross deficit in revenues of the Holtan Interurban Railway 1919-1923 inclusive, of \$115,530.23, including depreciation (based on Interstate Commerce Commission methods), interest charges and \$5,000.00 annually to sinking fund (except in 1923). While this exhibit may be accurate as to the whole operation of the road as a participating carrier, it cannot be chargeable to the competition of truck operation between Holtville and El Centro, especially as this protestant's gross income for 1923 showed a deficiency of only \$195.25 over expense and depreciation. It is the contention of protestant that competition by applicants will tend to reduce protestant's ability to increase its earnings to meet interest and sinking fund charges. We believe the establishment of truck operation as proposed would affect protestant's revenues, but not to the extent of 19 per cent as protestant asserts.

We have, with due deliberation, considered the entire record in the present proceedings, and are satisfied that the rail carriers have greatly improved their service in the Imperial Valley, and that as to this class of service it is adequate and efficient. This does not mean, however, that such adequacy and efficiency is or should be regarded as

preclusive saturation, except as to this class of service. But applicants are not proposing to establish competitive rail service. They are proposing a modern, useful and generally employed method of transportation available to every county in California, and which has been and is being used between Los Angeles and Imperial Valley by shippers of each terminus, as the record shows, illegal and irresponsible operators conducting this service. In addition, we believe that there has been shown a substantial and sufficient demand from the shipping public for a legally established and responsible fast truck, express and freight service, in addition to other facilities, and that such a demand justifies this Commission in granting, at least one of the applicants, a certificate.

Having reached this conclusion, it only remains to determine which of the two applicants before us should be awarded a certificate and thereafter undertake the service. Applicant, Thompson, could not be granted a certificate -- under the insufficient proof made by him, and further he is in the position of maintaining for a long period, operation without compliance with the statutory law. On the contrary applicant, Imperial Valley-Los Angeles Express, is before us with clean hands, and has affirmatively shown a demand for the service proposed by it. The operation under lease of a truck to the Milk Producers' Association at Holtville demonstrates satisfactory ability to maintain an over-night schedule as proposed. In respect to the operation, there are

physical conditions, such as continuous paved highway between termini, making the proposed schedule practical, which were not present in 1921, when the application of T. Morgan for a similar service was determined. There is also the analogy with the successful service of the San Joaquin Valley Transportation Company, which seems comparable in its essentials with the service proposed in the pending application. In addition, this applicant appears in financial position to establish the proposed operation and to thereafter maintain it. For these reasons and the further reason that the shippers and consignors of Imperial Valley now depending on unauthorized and irresponsible motor carriers are entitled to service by a transportation company whose rates and service are under proper public regulation and supervision, we believe the certificate should be granted applicant, Imperial Valley-
Los Angeles Express.

Upon the record herein therefore, we are of the opinion, and hereby find as a fact, that public convenience and necessity require the operation of an automobile truck, express and freight service between Los Angeles and Imperial Valley points as proposed by applicants, F. M. Hodge and J. D. Kwis, co-partners, proposing to operate under the fictitious name and style of Imperial Valley-Los Angeles Express. And we further find as a fact, upon the record herein, that public necessity and convenience do not require the truck freight service between Los Angeles and Imperial Valley points as proposed by applicant, W. D. Thompson, and that such application should be denied.

O R D E R

W. D. Thompson, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an auto freight truck service between Los Angeles, Wilmington, San Pedro, Van Nuys, Pomona, Ontario, and certain Imperial Valley 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 do not require the establishment of the service proposed by said applicant, as set forth in his application No. 9488 herein, and,

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

F. M. Hodge and J. D. Zwis, co-partners, doing business under the fictitious name and style of the Imperial Valley-Los Angeles Express, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a motor express service between Imperial Valley points and Los Angeles, 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 express and freight service proposed by said applicants

as set forth in their application No. 9630 herein, over and along the following route:

From Los Angeles via El Monte-Pomona highway to Ontario; thence via Valley Boulevard via Bloomington and Colton to Redlands; thence over the State Highway via Banning and Coachella to Westmoreland, Brawley, Imperial, El Centro and Calexico, and via the El Centro-Holtville highway from El Centro to Holtville and within five (5) miles on either side of said route between Westmoreland and Calexico and between El Centro and Holtville only

and,

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

- (I) That applicant 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.
- (II) That applicant 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 25th
day of November 1924.

C. Seavey

H. A. Sandigo

Erving Martin

Egerton Shore

J. T. Whitting
Commissioners