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ORIGINAL

Decision No. 14502

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 THE HAYDIS TRUCKING COMPANY, a co-)
 partnership, for certificate of public)
 convenience and necessity to operate auto)
 freight truck service between the City)Application No. 10314
 of Los Angeles and San Diego via Escondido)
 and via Carlsbad, and intermediate points.)

Marshall Stimson, Noel C. Edwards and Frank M. Smith for Applicants.

E. T. Lucey for Atchison Topeka & Santa Fe Railway, Pro-stant.

H. J. Bischoff for Coast Truck Line, Pro-stant.

Mark Thompson, Ed Stern and T. A. Woods for American Railway Express Company, Protestant.

Warren E. Libby, for Boulevard Express, Inc. and Webb Bros., Protestants.

Phil Jacobson for Franchise Carriers' Ass'n., Protestant.

Fred P. Gregson for Associated Jobbers, in behalf of applicants.

BY THE COMMISSION:

O P I N I O N

In this proceeding, as amended, J. Haydis and M. Haydis, co-partners doing business under the fictitious name of Haydis Trucking Company, petition the Railroad Commission for a certificate of public convenience and necessity authorizing the operation of automotive truck service between Los Angeles and San Diego via Oceanside, Carlsbad, Encinitas, Cardiff and Del Mar and between Oceanside and San Diego via Vista, San Marcos and Escondido.

Public hearings were held before Examiner Williams at Los Angeles and San Diego, evidence introduced and the matter submitted and it is now ready for decision.

Granting of the application was protested by the Atchison Topeka & Santa Fe Railway Company, Coast Truck Line, a corporation, American Railway Express Company, Boulevard Express, Inc., Webb Bros., and Franchise Carriers' Association. In view of the amendments made by applicants eliminating proposed service between San Diego and Escondido and intermediate points, the protest of Webb Bros., was withdrawn.

Applicants propose to operate one round trip per day between Los Angeles and Oceanside, one round trip per day between Oceanside and San Diego via Carlsbad and one via Escondido. Rates to be charged are as more fully set forth in Exhibit "A" accompanying the application, the commodities being divided into two classes, namely, first and second. The rates, Los Angeles to Oceanside and San Diego or intermediate points are 75 cents first class and 50 cents second class and between intermediate points from San Diego to Oceanside 40 cents first class and 25 cents second class. Equipment proposed to be used consists of some 10 5-ton trucks, 2 3-ton trucks, 3 1-ton trucks, 1 2-ton truck and one 1½-ton truck together with 5 5-ton trailers, the heavier equipment to be used on line haul, the lighter equipment for pick-up and delivery service.

Amendments to the application as now before the Commission leaves as protestants Coast Truck Line, operating between Los Angeles, San Diego, including Escondido and Cardiff on the inland route, Boulevard Express between Los Angeles and San Diego and certain intermediate points, Atchison Topeka & Santa Fe Railway, Los Angeles to San Diego and intermediate points and the American Railway Express Company transporting express matter over the line of the Santa Fe Railway Company.

A considerable number of witnesses called on behalf of applicants testified to the nature of the service rendered by applicants to them in the past, also as to service they had received from shipments made over the lines of existing carriers. In considering this testimony, particularly as regards the many witnesses who testified as to service they had heretofore received from applicant, a brief review of the applicants' past operations is required.

Some years ago M. Haydis applied for a certificate of public convenience and necessity to operate motor truck service between Los Angeles, San Diego and intermediate points, which application was denied by the Commission. Subsequent to such denial, he formed a corporation known as Truck Owners and Shippers, Inc., also another corporation known as the Haydis Forwarding Company and commenced operating trucks in the transportation of property for compensation between Los Angeles, San Diego and certain intermediate points.

In a proceeding brought by Coast Truck Line, one of the protestants herein, in the Superior Court in and for the County of San Diego, being No. 40953, an injunction was issued decreeing that defendants Truck Owners and Shippers, Inc., Haydis Forwarding and each of them and all their agents, employees, counselors and attorneys and all others acting in, aiding in or assisting in, and each of them be enjoined from operating auto trucks for transportation of property for compensation on any public highway in the State between fixed termini or over a regular route in competition with plaintiff (Coast Truck Line, a corporation) until they shall have obtained from the Railroad Commission of the State of California a certificate declaring that public convenience and necessity require such operation.

Evidence introduced by J. Haydis and M. Haydis tends to show that after such injunction was issued operation of trucks was discontinued by the corporations named. A number of trucks were leased to the Boulevard Express and property was picked up locally in the City of Los Angeles and San Diego by the Forwarding Company and transferred to opposite terminus by these leased trucks. This practice was carried on for about thirty days whereupon J. Haydis, brother of M. Haydis, and not a defendant in the proceeding above mentioned in the Superior Court in and for the County of San Diego, commenced operation under the fictitious name of J. Haydis Forwarding Company. He testified in effect that he had continued to so operate and was so operating during the hearing upon this proceeding and prior thereto.

The method of operation of applicants herein in the performance of service as hereinabove described is to lease trucks from individuals, maintain pick-up and delivery trucks in the cities served, the leased trucks being loaded at the terminus of the Forwarding Company and operated to destination, the lessor receiving a stated amount covering his operation, the billing and collection of amounts due for shipments moved being handled by J. Haydis, M. Haydis or their employees.

It further appears that subsequent to the issuance of the injunction hereinabove named M. Haydis and the Haydis Forwarding Company commenced operation of trucks for transportation of property for compensation between the City of Los Angeles and points in the Imperial Valley and that such transportation was being carried on prior to and during the time of hearing of the present proceeding, although no certificate had been obtained from the Railroad Commission authorizing such operation as required under the provisions of Chapter 213, Statutes of 1917, and amendments thereto.

With reference to testimony introduced by witnesses called on behalf of applicants as to the existence of a public necessity for the service herein proposed, practically all of this testimony, it developed, was based upon the assumption that the shippers were to receive a lower rate than that provided for in the tariff of protestant carriers. The rates proposed in the application set forth are higher than those heretofore charged, being 75 cents, first class, and 50 cents second class, testimony showing that the highest rate heretofore charged by this applicant was 50 cents per hundred or lower. The application provides a classification, which lists some 65 items as first class and 129 as second class, approximately one-third paying the 75 cent rate. The rates of the Boulevard Express are in the main higher than those provided by applicants, as are also the rates of the American Railway Express Company. The rates of the Santa Fe Railway Company, however, are lower, their service, although, does not include pick-up and delivery. The rates of the Coast Truck Line, which are segregated into four classes, range from 60 cents per hundred first class to 48 cents per hundred fourth class, Los Angeles to Oceanside as against the rate of 75 cents and 50 cents per hundred first and second class, as proposed by applicants. Coast Truck Line rate, Los Angeles to San Diego, ranges from 75 cents first class being the same as applicants' to 55 cents, fourth class, with a difference in the last rate of 5 cents per hundred in favor of applicants herein.

Evidence was further brought out by cross-examination of applicants and by the presentation of testimony by witnesses called by protestants as to the financial ability of the co-partnership to render a service as proposed should the application be granted as applied for. Exhibits show that the co-partnership existing at this time owns no property whatsoever.

Further J. Haydis testified that he owned no property other than the home in which he lived which has been homesteaded and some 6 shares of stock in the Haydis Forwarding Company and an interest in one truck. M. Haydis claimed that he owned no property other than an interest in a number of trucks, the small pick-up and delivery trucks being registered in the name of the Haydis Forwarding Company, legal owners being other parties in all cases. They testified, however, that they were able to acquire sufficient capital to secure all necessary equipment required in the proposed service. This, however, was not borne out by the testimony of other witnesses.

Further efforts on the part of protestants failed to procure the production, on the part of applicants, of any definite showing as to their ability to finance operations as herein proposed.

The American Railway Express Company operates four schedules south bound upon which express is carried to San Diego, three to Oceanside and one to Escondido; four are also north bound from San Diego and Oceanside to Los Angeles and one to Escondido,- this includes pick-up and delivery at larger points. Their rate per 100 pounds on merchandise N.O.S. Los Angeles to points Oceanside and San Diego, inclusive, being \$1.54 per 100 pounds; food and drink articles N.O.S. \$1.16 per hundred; perishables, such as butter, eggs, fresh vegetables, etc., 96 cents per hundred. They maintain a materially lower rate on return empty containers, this rate running from milk cans, which are returned free, up to 10, 15 and 20 cents per container.

The Boulevard Express Company operates 11 trucks and four trailers, together with 4 distributing trucks at San Diego and two at Los Angeles. The testimony of an official of this company was to the effect that all freight moving from Los Angeles overnight to San Diego was delivered to consignee by 10 A.M. the following morning.

Coast Truck Line itself leases a considerable portion of its equipment. Testimony with reference to this company was to the effect that all shipments moving overnight from Los Angeles to San Diego were delivered before 12 the following morning.

After careful review of the evidence and exhibits introduced in the above entitled proceeding, we hereby find as a fact that there exists no public convenience and necessity which would warrant the establishment of an additional transportation company by motor truck between Los Angeles and San Diego and intermediate points proposed to be served under the application hereinunder consideration. An order will be entered accordingly.

ORDER

Public hearings having been held in the above entitled proceeding, evidence and exhibits introduced and the matter being submitted and now ready for decision and basing its order upon the statements and finding contained in the opinion preceding this order,

IT IS HEREBY ORDERED that the above entitled application be and the same hereby is denied.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 27th day of January, 1925.

H. B. Pringle
C. Chauncey
Egerton Shore

Commissioners