

Decision No. 14840

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HARRY S. PAYNE, operating under the
fictitious name of PACIFIC MOTOR EXPRESS,
for certificate of Public Convenience and
Necessity to operate a motor truck service
for the transportation of express and freight
as an extension of present operative rights
between Los Angeles and Temecula, and to
authorize certain intermediate points on
such route.) APPLICATION NO. 10033

Myron Westover, for Applicant,
W. C. Folsom, for Pickwick Stages, Inc.,
and Marrietta Valley Motor Freight Line,
Protestants,
T. A. Woods, for American Railway Express,
Protestant.

BY THE COMMISSION -

OPINION ON REHEARING

By Decision No. 13968 on application herein, dated August 27, 1924, this Commission made its order granting said application. Whereupon a petition for rehearing was filed by protestant Pickwick Stages, Inc., operating under lease the Marrietta Valley Motor Freight Line, together with a request from applicant for permission to file an amended application covering additional service. The Commission granted both the petition for rehearing and applicant's request for permission to file an amended application, and ordered that the matter be heard before Examiner Williams at Los Angeles, said hearing has been duly held and the matter, upon rehearing, submitted.

In the original order it was not provided that the certificate granted applicant should include transportation of freight and express between Los Angeles and points between Chino and Corona, exclusive of the points named, including Los Serranos Country Club. This was an inadvertence which should be correct-

ed; and as to this correction, protestants offered no objection.

Protestant Pickwick Stages, Inc., operating the Marrietta Valley Motor Freight Line, maintains, under proper authority from this Commission, freight service between Los Angeles and Corona, and from Los Angeles to points east of Corona, including Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Marrietta, Marrietta Hot Springs and Temecula. It appears that daily service was maintained by this protestant to the points named until June, 1924, when service was reduced without authority from this Commission, to three trips weekly. In October, 1924, this protestant filed a new schedule, effective November 10, 1924, re-establishing daily service.

Applicant Payne, under authority of Decision No. 11655 on Application No. 8425, operates, under the name of the Pacific Motor Express, a service via Pomona between Los Angeles and points east of Corona (but not including Corona), including Temecula and Pauba Ranch. By his amended application applicant now seeks to include the transportation of property between Los Angeles and Corona via Pomona, and also to extend his service along Lake Shore Drive in the vicinity of Elsinore, and from Temecula to Fallbrook and San Luis Rey. By the amendment, new rates are offered for the additional services proposed.

The contention between applicant and protestants is based largely upon the question as to the necessity of another service between Los Angeles and Corona. Protestant Marrietta Valley Motor Freight Line now traverses a route by way of Anaheim and Santa Ana Canyon, which is shorter than the route by way of Pomona, as proposed by applicant.

By Decision No. 6629 on Application No. 4698, dated August 29, 1919, protestant's predecessors, Beyerle & Bandle, were authorized to transport freight from Los Angeles via Anaheim to

Temecula, serving Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrietta and Murrietta Hot Springs, no local service between Los Angeles and Corona being authorized. By Decision No.8230 on Application No.6167, Randle transferred his rights to Beyerle. By Decision No.10661 on Application No.7579, dated July 6, 1922, Beyerle, operating as the Murrietta Valley Motor Freight Line, was authorized to establish through service between Los Angeles and Corona. Since then protestant and its predecessors have been the only carriers by auto between Los Angeles and Corona. It appears that no right to transport property between Corona and points east and south of Corona has ever been obtained.

By Decision No.11841 on Application No.8768, Beyerle was authorized to lease all the foregoing rights to protestant Pickwick Stages, Inc. At this time protestant had on file with this Commission tariffs and time schedules showing daily operation. On October 23, 1924, protestant issued another time schedule, effective November 10, 1924, providing for daily service to Temecula, including Corona.

Testimony in this proceeding indicates that the Murrietta Valley Motor Freight Line is now operating a through continuous service between Los Angeles and Temecula, serving Corona and all points east and south with the same schedule and vehicles.

Applicant Payne possesses a certificate authorizing the transportation of freight and express between Los Angeles and points east of Corona, and the record is clear as to the efficiency of his service. The record is equally clear (including the admission of F.E.Burdett, superintending the freight operations of protestant), that protestant in June reduced its schedule, without authority, having been received from this Commission, from daily to three trips weekly, and that daily service was not restored until after granting of the instant

application by Decision No.13968, now under question in rehearing.

There is also testimony of many witnesses that the service of Marrietta Valley Motor Freight Line into Corona and to other points is not efficient, that shipments are delayed, that at least on one occasion shipments have been held at Corona over night for delivery at points east and south of Corona on the following day, and that shippers and consignees at Corona have not been able to use the service of protestant because of such delays and irregularities in its schedule of operations.

Testimony as to the inefficiency of the service rendered by protestant Marrietta Valley Motor Freight Line was produced by applicant in support of the need of a service by him between Los Angeles and Corona.

Howard L. Glass, hardware merchant of Corona, testified that he had attempted to use Marrietta service and on one occasion had left an order for transportation of a shipment at a cold-drink stand, understood by him to be the point of contact with protestant's trucks. After waiting two days and receiving no response, witness found other means of transporting the shipment. Witness admitted that he was prejudiced against truck service, but stated he would use such service from Corona to points east and south. He testified that he had given instructions that all his Los Angeles shipments be sent by rail.

Willis J. Fink, garage and machine shop, testified that he sought to make use of protestant's service, but found it unsatisfactory because the pick-up at Los Angeles took one or two days and in one instance protestant failed to pick up a shipment as ordered. Witness testified that he once ordered a shipment of pistons on Saturday and did not receive them until the following Tuesday.

J. A. Johnson, blacksmith, testified that he sometimes requires the transportation of two or three tons of material from Los Angeles to Corona, but sends a private truck for it; that he could not depend upon Marrietta service, and that he had been told by one of protestant's drivers that they send a truck out only every other day.

Chas. F. Kistler, automobiles, Corona, testified that he had received fair service from the Marrietta Line except on a few occasions. On one of these occasions a shipment of tires came two days late. Witness said he would make use of a daily service if one were provided that could be depended upon.

Chas. E. Hurt, Los Angeles manager of the Marshall Paint Company, which has a branch at Corona, testified that he formerly used the Marrietta freight service. On one occasion, witness testified, he delivered 1200 pounds of material at the Marrietta Line's Los Angeles terminal, for transportation to Corona. When the consignment did not reach Corona, witness telephoned the Marrietta terminal and was informed that the shipment had not been forwarded because only half a truck load was offered by shippers and protestant was holding consignment for a truck capacity load. Witness testified that he had not used Marrietta service since that time, but stated that he would make use of a daily truck service if it were dependable.

Fred R. Wenger, Los Angeles, testified that he had used Marrietta service in shipping carbon dioxide in tanks to Corona. He testified that he had difficulty in getting cash returns from these shipments, which were sent C. O. D. Shipments made May 3, 12 and 21st were remitted for under one check May 28th; shipments made June 4 and 16th were paid for by separate checks July 15 and July 30th; and a shipment of June 30, involving collection of \$16.80, was not paid for by protestant until October 15th. Witness also testified that it required considerable effort to obtain these settlements.

Chas E. Christopher, Los Angeles, testified that he was employed by applicant Payne to check operations of protestant Marrietta Valley Motor Freight Line. Witness testified that protestant's truck, which was scheduled to leave Los Angeles on October 9, left the following day at 10:35 A.M., reaching Elsinore at 6:00 P.M. On October 15th a truck and trailer left the Marrietta terminal at 11:51 A.M. and reached Corona at 4:05 P.M., remaining there all night. On the following day the truck made deliveries at Elsinore at 11:35 A.M., at Marrietta at 1:00 P.M., and at Temecula at 2:20 P.M. Witness testified that he inquired of protestant's agent at Elsinore as to the schedules observed and was informed that protestant did not maintain a regular schedule but made the rounds as often as possible.

Applicant Payne testified that he had seen trucks belonging to protestant in and about Elsinore as late as 6:10 P.M.

W. F. Lemon, Assistant Service Inspector of the Railroad Commission, testified that he had checked the service of protestant and that it was being given every other day, and not daily, as scheduled.

Twice before, in proceedings before this Commission involving this protestant, (Decisions No. 10818 and 11655), this Commission has admonished protestant to maintain efficient and adequate service. Mr. Burdett testified that daily service has been restored and that effort is being made to maintain a service efficient and adequate at all times for the needs of Corona and points east and south.

The record does not disclose a large volume of business into Corona or sufficient to sustain two motor freight carriers, but protestant Marrietta Valley Motor Freight Line has arbitrarily deviated from its schedules and repeatedly

neglected its duty, and for several months prior to the hearing. For these reasons and in the interest of adequate service to the public, based on the testimony herein of Corona shippers, this Commission will admit applicant to this field on the basis of the dependable service offered.

As to other extensions applied for, the testimony shows that approximately 500 gallons of milk daily are available for transportation in the region of San Luis Rey, but there was no testimony indicating that this commodity would move to Los Angeles, but rather that it would move to San Diego. In the absence of affirmative proof of need, this extension will be denied. Extension along Lake Shore Drive to serve an athletic club, a hunting lodge and a cannery, via Alberhill, Elsinore or Sedco, seems to be a mere re-routing of deliveries now deposited at Elsinore. However, as Lake Shore Drive is not now included in applicant's rights, a certificate to traverse this road is necessary and will be granted, as a demand service only, as applied for.

Upon the record herein, we hereby find as a fact that public convenience and necessity require the service of applicant between Los Angeles and Corona, and to points on Lake Shore Drive as applied for, but not to Fallbrook, Rainbow and San Luis Rey, and the order will so provide.

ORDER ON PETITION FOR REHEARING

A public hearing having been held in the above entitled proceeding, evidence having been received, the matter having been duly submitted and the Commission being now fully advised,

IT IS HEREBY ORDERED that the Order in Decision No. 13968 on application herein be and the same hereby is modified to read as follows:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the extension of the express and freight service of applicant herein, in order that service may be given between Los Angeles, Alhambra, El Monte, Puente, Walnut, Spadra, Pomona, Chino, Ranger, Norco, Los Serranos Country Club, Corona, Glen Ivy, Alberhill, Elsinore, Sedco, Wildomar, Murrietta, Murrietta Hot Springs, Temecula, Pauba Ranch and Lake Shore Drive (via Alberhill, Elsinore or Sedco); provided, that applicant shall not transport property between Los Angeles and Chino, inclusive, or intermediates, except when destined to or originating at points east and south of Chino, over and along the following routes:

The route now traversed by applicant herein under authority of Decision No. 11655, and five (5) miles on either side thereof between Chino and Corona only; and

To points on Lake Shore Drive via Alberhill, Elsinore or Sedco;

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

- 1- That applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted, stipulating that such certificate is an extension and enlargement of the rights now possessed by him, and not a new and separate operative right to any or all of the points served.
- 2- That the right to operate on either side of the route and within five (5) miles thereof means that applicant may, upon demand only, depart from the route on either side to the distance of five (5) miles or less, for the purpose of receiving or discharging property which he is authorized to transport, and departures from said route for any other purpose are distinctly forbidden, and that such departures from the route herein authorized shall not include any point within the city limits of Chino.

- 3- That applicant shall file, within thirty (30) days from 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.
- 4- That the rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- 5- That no vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same hereby is denied.

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

Dated at San Francisco, California, this 25th day of April, 1925.

Cl. Leary

Egerton Shore

Georg. D. Squires

Ernest

COMMISSIONERS.