

ORIGINAL

Decision No. 15458

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of R. E. ROBSON for certificate )  
of public convenience and neces- )  
sity to operate a service for the )  
transportation of milk and dairy )  
feed between Hynes, Clearwater, )  
Downey, Bellflower and Los Ange- )  
les. )

APPLICATION NO. 11181.

Richard T. Eddy, for Applicant.

M. G. Ferrahian, for Oganessoff & Oskonoff,  
Protestants.

G. W. Myers, for J. M. Correia, Protestant.

H. N. Blair and F. R. Carrell, for Bozoff  
& Tarvoff, Protestants.

BY THE COMMISSION:

O P I N I O N

R. E. Robson has made application to the Railroad Commission for a certificate of public convenience and necessity to operate a service for the transportation of milk and dairy feed between the dairy districts of Hynes, Clearwater, Downey and Bellflower, and Los Angeles.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

Applicant is now giving service to 45 dairies in the districts through which he seeks a certificate, whose product aggregates approximately 500 cans daily, which is transported an average distance of 15 miles to creameries in Los Angeles.

Applicant acquired this business in January, 1925, from Elmer Donlay, who had been conducting the operation since July, 1920, under certificate from this Commission. At the time of the transfer of the business, Donlay was operating under the exemption provided for in the amendment of 1923 to Section 5 of the Auto Transportation Act, declared invalid by the Supreme Court in April, 1925, and no authorization for the transfer of the certificate was obtained from this Commission.

The testimony shows that applicant is conducting the business acquired from Donlay, with some enlargements. It appears, however, that the only dairies to which applicant has given service since April, 1925, are those newly established and which made demand upon him for service. It also appears from the testimony that during the period of the hoof-and-mouth disease among cattle, many dairies of this region lost their entire herds and went out of business. Within the last year many of these dairy areas have been re-established with new herds.

Applicant's Exhibit "A" provides a rate of 13 cents per 10-gallon can for milk from all points except Bellflower, where the rate is 14 cents, and a rate of \$1.50 per ton on dairy feed, except to Bellflower, where the rate is \$1.75. Applicant gives two services daily and his equipment consists of three large trucks and three large trailers.

Applicant produced as witnesses in his behalf John W. Ralph, a dairyman near Downey, A. Blystra, a dairyman of Hynes, J. E. Kibler of Clearwater and Klaas Osinga of Clear-

water, who testified that applicant's service was prompt, efficient, and entirely satisfactory to the shippers. Similar testimony was given by W. R. Thompson, production manager of the National Creamery, and B. A. Boyle, assistant manager of the Western Farms Creamery, whose testimony was emphatic that the service of applicant is regular and efficient in all respects. Mr. Boyle testified that applicant had been transporting milk to dairies in which he is interested for about seven years and had always maintained efficient service during that period. Applicant formerly operated a milk service from the region of Compton to creameries at Los Angeles under certificate from this Commission.

The granting of the application was protested by Oganessoff & Oskonoff, J. M. Correia and Bozoff & Tarvoff, who also give service to the points and districts sought by applicant.

From the testimony it appears that during the period from August, 1923, to April, 1925, when the exemption from regulation heretofore alluded to was in effect, all carriers acquired business wherever it could be found. In this respect applicant and protestants were in the same position. Protests were based upon any enlargement of routing since the filing of the application herein. We do not find from the testimony that applicant has made any enlargement, except to give service to dairies which were established within the district and which sought his services.

The granting of the application was also protested

by Marengo Brothers, on the ground that applicant had taken on a new shipper in the territory applied for by Marengo Brothers since applicant's application was filed. It appears that this is true, but protestants Marengo Brothers were not supported in their protest by the testimony of this shipper that he desired any change in the service; and as the region is within the reasonable area sought by applicant, we see no reason for requiring him to discontinue service to this shipper. Should the shipper desire to make such change, he will have a choice between applicant and Marengo Brothers.

Applicant is one of seven or eight carriers who have been serving a large area which produces approximately 2500 cans of milk daily. The dairying is conducted on small ranches, and there is frequent change of location by the dairymen and frequent loss by some carriers and gains by others because of this change of location. It would be impossible for this Commission, in an area so intensively devoted to the dairying industry, to parcel out the dairies among the carriers and forbid choice of service on the part of the shippers. Some of the carriers in this area established their business while the exemption provided for in the so-called Crittenden Amendment was in force, investing their money in equipment in good faith, and have conducted their business successfully. They became competitors of those who had previously operated under restrictions imposed by certificate, with the result that previous restrictions,

except in a very few instances, were cast aside, and certificate-holders met the competition by altered rates and enlarged areas of service.

In the present proceeding there is no testimony that the service maintained by Donlay and transferred to the applicant herein has not been conducted efficiently and to the full satisfaction of the persons being served in the area of operation. This being the case, and with affirmative proof from shippers as to the efficiency and need of the service of applicant, this Commission must at least provide for the maintenance of the service heretofore given by him.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the service proposed by applicant. An order granting the certificate applied for accordingly will be entered.

#### O R D E R

R. E. Robson having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a service for the transportation of milk and dairy feed between Hynes, Clearwater, Downey and Bellflower, 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 operation of a service as proposed by applicant herein, for the transportation of milk and dairy feed between the dairy districts of Hynes, Clearwater, Downey and Bellflower.

and Los Angeles, over and along the following routes:

Route 1:

Los Angeles River  
East on Center to Ocean  
South on Ocean to South Street  
Thence east on Artesia Street to Clark  
Thence north on Clark Street to Center  
Thence west on Center Street to Cerritos  
Thence north on Cerritos Street to Washington  
Thence west on Washington Street to Ocean Blvd.  
Thence north on Ocean-College to Curtain Road  
Thence east on Curtain Road to Crawford Street  
Thence north on Crawford Street to Alameda  
Thence west on Alameda Street to College  
Thence north on College one block  
Thence west one-half mile  
Thence north to railroad tracks (about 1 mile)  
Thence east along railroad track to College  
Thence north on College to 12th Street  
Thence west on 12th Street to Downey Road and  
Baker Avenue.

Route 2:

Starting on Main or Lemon, Clearwater,  
South on Michigan to Jackson  
East on Jackson to New York Avenue,  
North on New York to State Street,  
East on State Street one-half mile to end of  
highway,  
West on State Street to Ocean,  
North on Ocean to Florence  
East on Florence to unnamed street, one-half mile,  
North on unnamed street to Curtain-Bealty Road,  
West on Curtain-Bealty Road to College Avenue,  
North on College to Alameda,  
East on Alameda to Crawford,  
North on Crawford to 12th - Downey Road-Baker Ave.

Route 3:

Starting on Main or Lemon, Clearwater,  
To Ocean Avenue  
South on Ocean to Center  
East on Center to Cerritos  
North on Cerritos to Curtain-Bealty Road  
West on Curtain-Bealty Road to Gibson  
North on Gibson to Curtain Road  
North on Crawford to 12th Street-Downey Road-  
Baker Avenue.

PROVIDED, HOWEVER, that the area to be served by applicant over  
said routes shall not extend beyond the following boundaries;

On the north by Crawford Street to 12th Street - Downey Road - Baker Avenue, in the town of Downey, thence following the line of the Southern Pacific Railway as the same runs between the San Gabriel River on the east and the Los Angeles River on the west.

On the west by the Los Angeles River.

On the south by South Street, and South Street extended to said San Gabriel River.

On the east by the San Gabriel River, following the course of said river to a point where the same is crossed by the tracks of the Southern Pacific Company as the same runs through the town of Downey; 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. Applicant shall, within twenty (20) days from the date hereof, file with this Commission his written acceptance of the certificate herein granted; shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service herein authorized within a period of not to exceed thirty (30) days from date hereof.
- II. 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.
- III. 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.

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 24<sup>th</sup> day of September 1925.

H. B. Brundage

George D. Squires

Leon Whitall  
Commissioners.