

ORIGINAL

Decision No. 1551

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of C. L. COSTA for a certificate
of public convenience and neces-
sity to operate milk truck freight
service between Artesia, Norwalk,
Downey, Bell and Los Angeles.

APPLICATION NO. 11600.

J. P. Sproul, for Applicant.

Robert E. Austin, for A. T. Spencer, Pro-
testant.

John N. Helmick, for H. C. Venable, Pro-
testant.

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

Richard T. Eddy, for W. R. Bennett and
R. E. Robson, Protestants.

Phil Jacobson, for Hamo & Semonian, Pro-
testants.

BY THE COMMISSION:

O P I N I O N

C. L. Costa has made application to the Railroad
Commission for a certificate of public convenience and neces-
sity to operate milk truck freight service between Artesia,
Norwalk, Downey, Bell and Los Angeles.

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

Applicant has been conducting a service for the transportation of milk from dairy ranches in the vicinity of Downey and Artesia for approximately one and one-half years. At the hearing applicant stated that he had performed no service in or near Norwalk or Bell, and it was stipulated that these points might be dropped from consideration, being merely on the route traversed by applicant.

Applicant proposes a rate of 15 cents per 10-gallon can on milk, with a free return of cans, and a rate of \$3.00 per ton on general freight and \$2.00 per ton on dairy feed and supplies. He has two trucks available for the operation and proposes service every day in the year.

According to the testimony of applicant, he is now transporting milk from 13 dairies, with an average daily output of 220 cans, which is transported a distance of 25 miles to creameries at Los Angeles.

Applicant produced as witnesses in his behalf F. M. Cota, August Aguiar, Joseph Silva, Joseph Ramo, Paul Cordoza, Frank M. Ferreira, B. M. Ormonde and John M. Batista, producers in the Norwalk-Artesia region, whose testimony in general was that applicant's service had been satisfactory and was needed by them, and that they desired to have it continued. It appears from the testimony that applicant and most of the producers served by him are Portuguese, and that this fact has been of some importance in bringing their business relations together. It also appears that this colony of Portuguese dairymen has recently been attracted to this area because of the good feed conditions, abundant water and short

haul to the market. In the main these dairies are newly established ones, occupying the sites of dairies which were extinguished during the period of the hoof-and-mouth disease.

The granting of the application was protested by A. T. Spencer, a carrier whose operation at all times has been under certificate from this Commission, and who has been giving service in the region of Downey. This carrier performed service for the Barberia and Ormonde ranches until last July, when these producers began using the service of applicant. Applicant admitted that he had sought the business of Ormonde Brothers, but testified that all the other shippers had sought him. Protestant Spencer testified that he has five trucks and two 4-wheel trailers available for service in and about the Downey region, and that he is able to procure such additional equipment as may be necessary to transport the products of the dairies in that region. This protestant also conducts a general freight service between Los Angeles and Downey. He testified that about two-thirds of his business is milk-hauling and the remainder is other freight; that he serves about 30 dairies, transporting 225 cans of milk daily, including shipments from the region of Buena Park (Orange County), and that his business is now much less than it has ever been at any time in the past, due to the establishment of new services such as applicant's.

The granting of the application was also protested by H. C. Venable, who conducts a milk-hauling business under certificate from this Commission. This protestant is now an applicant before this Commission, under Application No. 11278,

for authority to serve an extension to the Montana Ranch, two miles from his proper field, and which service he has been giving to two shippers without authority. He also protested the granting of the application herein, as a freight carrier under separate certificate, operating between Los Angeles and Artesia. There appears to be nothing in the record to support applicant as to general freight hauling to any point, and therefore the protest of protestant Venable as to Artesia should be sustained.

Protestants Spencer and Venable contend that applicant should not be granted any certificate for service conflicting with their authority to transport milk or dairy feed, because they have maintained operation and rates within the restrictions imposed by their certificates. We do not think this is true of protestant Venable, who has extended, without authority, his service to the Montana Ranch and is now an applicant for such extension. Applicant herein established his business at a time when it appeared that such establishment and service were valid and free from regulation, and upon this basis he acquired the business he is now conducting. Apparently choice of service was made by the shippers, and applicant's service has been, and now is, their choice. We believe that a certificate should be granted to applicant but with restrictions which will prevent any further intrusion into protestant Spencer's established operation, which appears to be adequate and efficient.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the operation of the service proposed by applicant herein, with certain limitations, and that a certificate therefor should be granted. An order will be so entered.

O R D E R

C. L. Costa having made application to the Railroad Commission for a certificate of public convenience and necessity to operate milk truck freight service between Artesia, Norwalk, Downey, Bell 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 motor truck service as proposed by applicant herein, for the transportation of milk from the Artesia and Norwalk districts only to Los Angeles, and for a return movement of dairy feed to the ranches served by applicant in the Artesia and Norwalk districts, provided, however, that applicant may assume no additional service at any point north of one-half mile south of the town of Norwalk, over and along the following route:

Beginning at the intersection of First and Main Streets in Artesia, north on Main Street to Norwalk, thence from Norwalk via the Norwalk Road to Downey, thence north on Downey Road to Bell, thence west on Baker Street to Santa Fe Avenue in the city of Los Angeles; 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:

1- Applicant shall file with this Commission, within twenty (20) days from date hereof, 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.

2- 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.

3- 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 21st day of October, 1925.

H. B. ...
...
George D. ...
...
Leon ...
COMMISSIONERS.