

Decision No. 15671

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of CITY TRANSFER AND STORAGE for )  
certificate of public convenience )  
and necessity to operate truck )  
service between San Diego and Los )  
Angeles and intermediate points, )  
and Oceanside and San Diego and )  
intermediate points. )

APPLICATION NO. 11079.

Richard T. Eddy, for Applicant.

H. J. Bischoff, for Coast Truck Line,  
Protestant.

Fickeisen & Richardson, by J. E. Haley,  
for T. R. Jakeway, Protestant.

C. K. Fitzgerald and H. R. Harnish, for  
Boulevard Express, Protestant.

E. T. Lucey, for The Atchison, Topeka &  
Santa Fe Railway Company, Protestant.

M. Thompson, for American Railway Express,  
Protestant.

BY THE COMMISSION:

#### O P I N I O N

City Transfer and Storage has petitioned the Railroad Commission for a certificate of public convenience and necessity to operate truck service between San Diego and Los Angeles and intermediate points, and between Oceanside and San Diego and intermediate points.

The application herein was made by Max W. Hohenbeck of Oceanside, operating under the fictitious name and style of "City Transfer and Storage", of which business he is the sole proprietor.

Originally the application contemplated transportation of vegetables between San Diego and Los Angeles and intermediate points, and of general freight between Oceanside and San Diego and intermediate points. By amendment filed at the time of hearing, applicant added products of agriculture, horticulture and viticulture moving into Oceanside from certain other points and destined for San Diego or Los Angeles, with the privilege of pick-up or delivery 10 miles on either side of the roads traversed in bringing such products into Oceanside for through shipment. Applicant also asked, by amendment, authority for the transportation of fertilizers, seed and empty containers from Los Angeles and San Diego to San Luis Rey and points intermediate between San Onofre and Del Mar, and for the transportation of dried beans from Oceanside to Los Angeles harbor. A new schedule of rates was also provided, as amended Exhibit "A". As amended, the application provided for a pick-up service for farm products concentrating at Oceanside for shipment north to Los Angeles and south to San Diego, and also for a general freight service between Oceanside and San Diego.

Public hearings herein were conducted by Examiner Williams at San Diego and Oceanside, and following the filing of briefs by the parties to the action, the matter was duly submitted.

Applicant began service in January, 1924, as a carrier of farm products and necessities under the exemption from regulation provided by the amendment of 1923 to Section 5 of the Auto Transportation Act, commonly known as the Crittenden Amendment, and continued such operation up to the time of hearing. During this period applicant developed considerable business, particularly in the region in and about Oceanside.

Applicant's equipment consists of five trucks and one trailer, and he maintains headquarters at Oceanside only.

Applicant made no proof as to the necessity for a general freight service between Oceanside and San Diego, and hence this feature of his application needs no further consideration and should be denied. His main showing was upon the necessity for continuing the business of the movement of farm products from the region between Del Mar and San Onofre and as far inland as Escondido, Bonsall and San Luis Rey, to Los Angeles, with a return movement of fertilizer, seed and empty containers. Practically no proof was made that his service is required at San Onofre, Los Flores, San Luis Rey, Bonsall, Pala, Rincon, Valley Center, Escondido, San Marcos, Vista and Cardiff. What testimony the record discloses as to these points is the testimony of applicant himself, that he had hauled or expected to haul between these points and Oceanside or Los Angeles, and the opinion of witnesses from other points that the service established by applicant would be useful in these localities. Equally, there was little proof of any necessity for applicant's service from Oceanside or Escondido south to San Diego. In considering this application upon the testimony of witnesses, the testimony affects Oceanside, Carlsbad, Encinitas and Del Mar mainly, and it may be assumed that applicant rests upon the proof as to the necessity for his service at these points in support of his application.

From Oceanside applicant produced as witnesses in his behalf, W. J. Allen, Earl Frazee, J. N. Keisker, E. E. Ellery, R. Hall, Mrs. F. Stromberg and J. T. Coyle, the latter being secretary of the Oceanside Chamber of Commerce.

These witnesses testified, in general, that the service heretofore rendered by applicant had been better than any service previously received from any other carrier; that their products were delivered to the Los Angeles market unfailingly and promptly, and that thereby they had received the benefit of early market conditions and advantageous prices. Nearly all of these witnesses had used the service of protestant Coast Truck Line and expressed dissatisfaction with it. Mr. Coyle testified that the service maintained by applicant was valuable to Oceanside and the agricultural lands east thereof, and that the ability of applicant to transport products to the Los Angeles market direct from the ranches had stimulated planting. He further testified that the planted area in the Escondido region, which he indicated included San Luis Rey, Bonsall and Escondido, had increased 55 per cent in the last two years. All of these witnesses evinced a strong desire that applicant's service be continued.

Witnesses for protestant Coast Truck Line from Oceanside were Dr. R. S. Reed and Otto Hinderliter. Each testified as to the good service given by this protestant. Each also had used the service of applicant for the transportation of vegetables and testified that the service had been good.

Witnesses for applicant from Carlsbad were J. Theisinger, A. W. Theisinger, A. Bellor and J. N. French, all producers of commodities included under the term 'agricultural products' and all marketing their products in Los Angeles. These witnesses were positive in their statement that the service heretofore rendered by applicant had been superior, and advantageous to them as producers and shippers, and that the service

should be continued for their benefit and the benefit of others in the same region who had also been users of applicant's service.

Witnesses for protestant Coast Truck Line from Carlsbad were A. Schudte, O. F. Roberts, O. L. Steele and G. Y. Baker, all producers of vegetables and ranch crops, and all positive in their testimony that the service of this protestant was adequate and satisfactory in every respect.

Applicant presented as a witness from Encinitas, D. Dollman, a producer, who testified in support of the necessity of applicant's service in this community. Mr. Dollman had used the service of protestants Coast Truck Line and Boulevard Express, as well as that maintained by applicant, for the shipment of peas and beans, and testified that he regarded the service of applicant in the last two seasons as superior to that of either protestant. This witness testified that frequently he had to go to the roadside at night with a lantern to flag the vehicles of protestant Coast Truck Line, in order to have his shipments transported, and that on several occasions the truck was loaded and could not receive his shipment. He further testified that this was true as to his neighbors, and that frequently they had taken turns in watching for the truck, in order to stop it. This witness complained that the Boulevard Express service did not reach the Los Angeles market in time for advantageous disposition of produce, but stated that when the Coast Truck Line did handle shipments they reached the market promptly.

Protestant Coast Truck Line introduced as a witness in its behalf from Encinitas, C. W. Hunt, a grower and shipper of vegetables. Mr. Hunt testified that he planted 1200 acres in 1924 and 300 acres in 1925. His shipments move chiefly by rail, but a portion of his products are shipped by truck via this protestant's service. This witness, who also buys and sells vegetables grown by others, testified that he knew of no service anywhere equaling that of protestant Coast Truck Line. On cross-examination he admitted that the service of applicant, which had been used by him, was also satisfactory.

The only witness produced by applicant from the Del Mar (Solano Beach) region was E. J. Estes. Mr. Estes, who has been a producer of vegetables in this district for more than ten years, testified that the acreage planted during 1925 represented a considerable increase over previous years, and that producers in this region sought to reach the Los Angeles market. He testified that applicant had been transporting produce for him satisfactorily and efficiently, although several times deliveries had not been made as promptly as usual. This witness had used the service of protestant Coast Truck Line, but testified that he had discontinued its use because shipments were not picked up at the roadside, and also because he had had difficulty with this protestant as to claims.

Exhibits filed by applicant and protestants Coast Truck Line and Boulevard Express show the movement of farm products from all points affected by the application herein, between July 1, 1924, and June 30, 1925, inclusive, to have been as follows:

Coast Truck Line,	1,912,694 pounds
Boulevard Express.	4,154,904 "
City Transfer & Storage.	4,615,193 "

The peak of this movement, as shown by the exhibits, occurs in May, June and July. It is apparent from this showing that the quantity transported by applicant during the period represented amounted to two-fifths the total combined quantity transported by these two protestants, and to nearly three times the amount transported by protestant Coast Truck Line. There was no definite showing that prior to applicant's entry into the transportation field these protestants had handled the entire gross quantity shown by the above figures. On the other hand, there is the direct testimony of Mr. Coyle, secretary of the Oceanside Chamber of Commerce, and the testimony of a number of producers and shippers testifying in behalf of both applicant and protestants, that there has been a large increase in the planted area in the last two years. In addition, protestants' efforts to show that the service of applicant has not been efficient and adequate have failed, in our judgment, and we must assume that applicant has organized and established an efficient service for the transportation of the products of agriculture and horticulture included in the application, and that such service is still the choice of a substantial portion of the public. We believe applicant has shown affirmatively that his service is of value in the Oceanside regions as far east as San Luis Rey and as far south as Carlsbad, but we do not think the record supports the necessity for his service much beyond those points.

Protestant Coast Truck Line sought to show that the rate maintained by applicant was less than the rate now maintained.

by this protestant for the general movement of the commodities involved herein. The rate proposed by applicant is 50 cents on farm products moving to Los Angeles and 2 cents per unit upon the return of empty containers. Protestant's rate is 48 cents on shipments between Oceanside and Los Angeles, and 4 cents per unit for the return of empty containers. We cannot see that this difference in rates has anything to do with the usefulness of the service proposed by applicant, or its need. If anything, it shows applicant's rate to be slightly higher than that of this protestant.

It is our conclusion, therefore, based upon the record herein, that there is a necessity for the continuance of applicant's service for the transportation of farm products from the Oceanside region to Los Angeles, and for a return movement of fertilizer, seed and empty containers to shippers who may make use of applicant's service to Los Angeles. An order granting a certificate therefor accordingly will be entered.

#### O R D E R

Max W. Hohenbeck, transacting business under the fictitious name and style of City Transfer & Storage, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate truck service between San Diego and Los Angeles and intermediate points, and between Oceanside and San Diego and intermediate points, public hearings 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 the service proposed by applicant herein  
for the transportation of the products of agriculture, hor-  
ticulture and viticulture only from ranches where said  
products originate, from Oceanside and all points within a  
radius of ten miles thereof, to Los Angeles, and for the re-  
turn movement of fertilizers, seed and empty containers only  
from Los Angeles to Oceanside and points within a radius of  
ten miles thereof, PROVIDED that no shipments be transported  
from any point north of the south line of the Rancho San  
Marguerita, over and along the following route:

Over main and lateral county highways between  
Oceanside and points within ten miles thereof,  
and between Oceanside and Los Angeles over the  
State highway via Santa Ana; 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 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 identi-  
cal with those as set forth in amended  
Exhibit "A" attached to the application here-  
in within 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, as-  
signment 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.

IT IS 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 and after the date hereof.

Dated at San Francisco, California, this 21st day of November 1925.

H. B. Bannister

C. H. H. H.

George D. Squires

Leon White  
Commissioners.