

Decision No. 16467

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of W. O. MASTERS, an individual,)
for a certificate of public convenience and necessity to operate a)
motor freight service between Los Angeles, Azusa, Duarte, Claremont,)
Pomona, Ontario, Riverside, Rialto and Upland, and intermediate points)
thereto, etc.)

APPLICATION NO. 11937.

Hardy, Elliott & Aberle, for Applicant.

H. J. Bischoff, for Service Motor Express, Protestant.

D. W. Layne, for Pacific Electric Railway Company, Protestant.

Phil Jacobson, for Keystone Express, Rex Transfer, Los Angeles & San Pedro Transportation Company and Hodge Transportation System, Protestants.

BY THE COMMISSION:

O P I N I O N

W. O. Masters has made application to the Railroad Commission for a certificate of public convenience and necessity to operate a motor freight service between Los Angeles, Azusa, Duarte, Claremont, Pomona, Ontario, Riverside, Rialto and Upland, and intermediate points.

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

Applicant proposes a service exclusively for the transportation of paper used in wrapping oranges and lemons, between Los Angeles and Puente, San Dimas, Covina, Azusa, Azusa Avenue, Glendora, La Verne, Claremont, Cucamonga, Duarte, Pomona, North Pomona, Upland, Ontario, Prenda, Rialto, Riverside, Highgrove, Colton, Corona, Charter Oak, Arlington, Casa Blanca, Irwindale and Pachappa. He proposes to conduct the service upon demand only, at rates as shown in his Exhibit "B" filed with the application, and to accept no shipment weighing less than five tons. As equipment for the service, applicant possesses one truck and one trailer of approximately 10 tons' capacity.

Applicant testified at the hearing that all of the paper transported by him will be procured at the warehouses of the Crown Willamette Paper Company in Los Angeles, but that he is willing to accept consignments from any other shippers of this commodity in the zone bounded on the east by the Los Angeles River, on the west by Figueroa Street, on the south by Washington Street and on the north by Avenue 40.

Applicant established the business five years ago and has been operating continuously since that time without authority from this Commission or permit from any other regulatory body. He explained that he was in utter ignorance of any necessity for sanction of law to the operation, believing that a service of the character performed by him was not subject to regulation. He testified that as soon as he was informed of his legal status he made application for a certificate in order to bring his operation within the law.

Applicant produced as witnesses in his behalf W. R. McHaffie of the Crown Willamette Paper Company; Arthur Clutter-

bach of Covina; H. D. Graves, foreman of the G. A. Hansen Fruit Company at Upland; William Hoogendyk, manager of the Charter Oak Packing Company; J. M. Oliver, field representative of the Fruit Growers' Supply Company, representing 210 packing house members; E. C. Rosenberger, manager of the Upland Heights Packing Company; H. W. Pierce, manager of the College Heights Orange and Lemon Association of Claremont; B. R. Daves, manager of the Claremont-College Heights Association; E. F. Leaman of the Upland Lemon Growers' Association; T. R. Hobbs of the San Dimas Lemon Association; E. M. Wheeler of the San Dimas Orange Association; L. R. Topham of the Irwindale Citrus Association; and G. A. Otis, manager at Riverside of the Fay Fruit Company and of the same company at Anaheim.

In general, the testimony of these witnesses covered a period of two or more years, during which time applicant had been delivering many tons of orange and lemon wraps at the various packing houses of these associations. Every witness testified to the efficiency of applicant in performing this special service. Mr. Oliver, field representative of the Fruit Growers' Supply Company, a subsidiary of the California Fruit Growers' Exchange, testified that applicant handled from 1000 to 1200 tons of citrus fruit wrapping paper annually for the membership of this organization.

The granting of the application was protested by the Keystone Express, L. R. Kegerise, proprietor; Service Motor Express, Fletcher & Tremble, proprietors; and the Rex Transfer, T. R. Rex, proprietor. Each of the protestants

produced testimony to show that service is maintained by it to the various points sought by applicant, and each testified to receiving consignments not only from the Crown Willamette Paper Company but from other citrus wrap supply houses, and to the frequent transportation of this commodity to the satisfaction of consignees. Applicant contended that by reason of giving exclusive attention to the transportation of this commodity, which is extremely fragile, he is able to handle it with the special care necessary to preserve it from damage - a care which carriers of general commodities are not prepared to exercise. The evidence, however, does not appear to uphold this contention of the applicant. The testimony shows that while applicant has for several years conducted a special service for the transportation of citrus fruit wrapping paper, to the satisfaction of his customers, the regular service conducted by the existing authorized carriers has also been generally satisfactory, although a few witnesses testified to dissatisfaction with such service.

We believe the record as a whole is convincing that applicant has established and is now conducting a service which the citrus industry uses to advantage in addition to the service of existing carriers of general commodities, and that, therefore, applicant's service should be continued as a public necessity under authority of a certificate. Applicant proposes an operation which includes free pick-up and delivery at packing houses within three miles on either side of the highways to be traversed. The certificate granted him by the order following this opinion will limit the operation to

the terminals designated by applicant in his application and to the routes indicated on the map filed therewith, and deliveries off the highways may be made without certificate from this Commission so long as applicant does not perform such service between fixed termini or over a regular route.

O R D E R

W. O. Masters having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a motor freight service between Los Angeles, Azusa, Duarte, Claremont, Pomona, Ontario, Riverside, Rialto and Upland, and intermediate points, 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 freight service as proposed by applicant herein, for the transportation solely of wraps for citrus fruits between Los Angeles and Puente, San Dimas, Covina, Azusa, Azusa Avenue, Glendora, La Verne, Claremont, Cucamonga, Duarte, Pomona, North Pomona, Upland, Ontario, Prenda, Rialto, Arlington, Riverside, Colton, Corona, Highgrove, Charter Oak, Casa Blanca, Irwindale and Pachappa, over and along the following route:

Via Mission Road and Valley Boulevard to Pomona, thence via Pomona-Riverside Road to Riverside, thence between Riverside and San Bernardino via Highgrove and Colton, thence between San Bernardino and Azusa via Foothill Boulevard, thence via Citrus Avenue to Baldwin Park, thence via

Covina Road to Valley Boulevard; also between Baldwin Park and Puente via Puente-Covina Road; also between Pomona and Baldwin Park via San Dimas and La Verne; also between Riverside and Ontario via Corona, using main paved highway through Arlington and Chino; 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 identical with those as set forth in Exhibit attached to the application herein within a period of not to exceed twenty (20) days; from the date hereof; and shall commence operation of the service hereby 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 vehicle 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 12th day of April 1926.

H. B. Burdick

C. J. ...

George W. ...

Leon ...