

ORIGINAL

Decision No. 16888

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of ROBERT D. WADE for certificate )  
of public convenience and necessity )  
to operate freight service between ) APPLICATION NO. 12101.  
Escondido, Oceanside and Carlsbad )  
and Los Angeles. )

A. R. Honnold, for Applicant.

H. J. Bischoff, for Coast Truck Line, Protes-  
tant.

W. F. Brooks, for The Atchison, Topeka & Santa  
Fe Railway, Protestant.

H. R. Harnish, for Boulevard Express, Protes-  
tant.

BY THE COMMISSION:

O P I N I O N

Robert D. Wade has made application to the Railroad Com-  
mission for a certificate of public convenience and necessity to  
operate freight service between Escondido, Oceanside and Carlsbad  
and Los Angeles.

A public hearing herein was conducted by Examiner Wil-  
liams at Escondido.

Applicant proposes the establishment of a truck freight  
service between Escondido, Oceanside and Carlsbad, and Los Ange-  
les, for the transportation of eggs, live poultry and general  
freight. He proposes, as equipment for the service, one 2½-ton

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motor truck with pneumatic tires, and offers three schedules weekly between termini. By his Exhibit "A" applicant proposes a rate of 35 cents per case on eggs, with free return of empty cases, 60 cents per 100 pounds on first class freight and 40 cents on second class freight, between Escondido, Oceanside and Carlsbad and Los Angeles, and special rates for vegetables, shorter distances, and for truck loads.

Applicant testified that he began the transportation of eggs and live poultry to the Los Angeles market, and the return movement of poultry feed and supplies, in November, 1924, under the provisions of the so-called Crittenden amendment to the Auto Stage and Truck Transportation Act, which amendment was declared unconstitutional by the Supreme Court in April, 1925. Originally he gave service three times weekly, but after his operation was enjoined by the Superior Court of San Diego County he leased his truck to the Escondido Poultrymen's Association and continued operation as a driver. This lease (applicant's Exhibit No. 1) seems to be a true lease in character and not in violation of the injunction forbidding the operation established by applicant. In July, 1925, applicant became ill and underwent several operations, with the result that he was incapacitated for work for six months.

From May 11, 1925, until the date of hearing, the service established by applicant was continued under lease to the Poultrymen's Association, by Julius C. Deggelman, manager of the Association. According to his testimony, this association has approximately 200 members, producing from 125 to 175 cases of eggs weekly for shipment to Los Angeles. In addition, there is a return movement of 7 or 8 tons of poultry feed from Los Angeles.

Mr. Deggelman testified that no property had been transported except from or to members of the association, and that only two trips weekly had been required. This witness further testified that in 1924 the association had sought to induce the Coast Truck Line, protestant herein, to reduce its rate of 45 cents per case, but had been unsuccessful, and in November, 1924, many of the members began patronizing applicant's service at a rate of 35 cents. Subsequently the Coast Truck Line reduced its rate to 35 cents and inaugurated pick-up service at the various poultry ranches offering consignments. At the time of hearing herein, the two services were in existence, operating on practically parallel lines and at the same rate.

As applicant produced no testimony in support of any public necessity for his service in transporting eggs and live poultry from Carlsbad and Oceanside to Los Angeles, or as to the need of general freight service between any points, consideration of the application may be limited wholly to the matter of public necessity for applicant's service in transporting eggs and live poultry from Escondido and its environs to Los Angeles.

Applicant was supported as to his offer of service not only by Mr. Deggelman of the Poultrymen's Association, but by P. E. Melbourne, Hosea C. High, Charles McDonald, C. W. Bozarth, W. F. Beven and A. Brem, all producers and shippers of eggs and all having from 1000 to 2000 hens. In substance, their testimony was that the service originally established by applicant had been satisfactory and that they had not been satisfied with the service of protestant Coast Truck Line.

This protestant produced as witnesses in its behalf E. A. Holbrook, Olan C. Hudson, William F. McCune, R. V. B. Lin-

coln, J. Roy Chafe, Dean Howell and J. F. Gerkin, all poultry producers of about the same character as applicant's witnesses and all equally positive that this protestant's service had been efficient and complaints satisfactorily adjusted. In addition, it was stipulated that 12 other witnesses present at the hearing, who were not egg shippers but who patronized protestant's service for shipment of other commodities, would testify that the service was efficient and the rates satisfactory.

It appears from the testimony herein that until within the last year protestant Coast Truck Line required the delivery of eggs to its depot at Escondido. This arrangement seems to have been unsatisfactory to the shippers, and the establishment of the Wade service, with pick-up at the ranches, was welcomed by many of them. After applicant's service had been established, the Coast Truck Line reduced its rates and began the free pick-up service which had previously been demanded by many of the shippers. In addition, this protestant is able to perform daily service in connection with its other freight business, while applicant proposes but three schedules weekly, and the testimony shows that the quantity of eggs offered through the Poultrymen's Association, which does not exceed 175 cases a week, justifies no more than two schedules. Considering that applicant's truck is specially constructed for the transportation of eggs and that the bed holds but 168 cases, (as applicant testified) it is apparent that two trips have been made weekly to transport one truckload of eggs. On the other hand, protestant Coast Truck Line offers a daily service, and

according to the testimony of R. C. McConnell, its manager, has abundant space in its vehicles for additional cargo, and will, if the offering of shipments is sufficient, establish a direct service for this class of business alone.

It may be pointed out also that the operation of applicant's truck from May 11 to December 31, 1925, was conducted at a loss. According to the figures presented by Mr. Deggelman (applicant's Exhibit No. 2), the gross revenue from all business during this period was \$3107.15, while the gross expense was \$3209.80, an accrued loss of \$102.65. The expenses included rent of the truck at \$30.00 per round trip, driver's wages at \$15.00 a round trip, and cargo insurance. No allowance is made for depreciation, return on the investment or management expense. In addition, Mr. Deggelman testified that there is due on the truck \$2290.00; to the Poultrymen's Association on chattel mortgage, \$1278.00; and that the original purchase note of \$1000.00, given by applicant's father, is still unpaid. A portion of the indebtedness secured by chattel mortgage on the truck was for repairs made to the truck during its operation under lease. Contrasted with this is proof by Protestant Coast Truck Line that its daily service between Escondido and Los Angeles produces a gross revenue of about \$1350.00 per month, of which only \$350.00 a month is contributed by the movement from Escondido to Los Angeles.

After a careful study of all the testimony produced by the parties hereto, we are convinced that it has not been established by applicant that his service is necessary for the transportation of eggs and live poultry between Escondido and Los

angeles, and also, it appears convincing that the operation he proposes cannot be conducted profitably if limited to those commodities. There being no proof of public necessity to support the other service proposed by him, and there being affirmative proof of the adequacy and efficiency of protestant Coast Truck Line's service, we can but conclude that the application herein should be denied. In doing this we must remind the shippers of the position long held by this Commission, that multiplicity of services is not a remedy for inefficient service by existing carriers. While it has been shown that there was some dereliction on the part of protestant Coast Truck Line a year or more ago, the remedy which should have been applied was an appeal to this Commission to require this protestant to render adequate service. The volume of business offered for transportation by truck from Escondido and environs to Los Angeles, including all commodities, appears from the record herein to be insufficient to permit a division between two carriers with profit to either.

We therefore find as a fact, from the record herein, that applicant has not affirmatively shown public necessity for the service proposed by him, and that, therefore, his application should be denied. An order will be so entered.

#### O R D E R

Robert D. Wade having made application to the Railroad Commission for a certificate of public convenience and necessity to operate freight service between Escondido, Oceanside and Carlsbad 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 do not require the operation of freight service as proposed by applicant herein, and

IT IS HEREBY ORDERED that the application herein be and the same hereby is denied.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 26<sup>th</sup> day of April 1926.

H. H. Brundage

C. L. Seamy

Leon Whitell

COMMISSIONERS.