

Decision No. 16562

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of R. G. CHASE for certificate of)
public convenience and necessity)
to operate a general trucking and)
hauling service between certain)
points herein designated.)

APPLICATION NO. 12177.

Faries & Williamson, by D. R. Faries, for
Applicant.

H. J. Bischoff, for Coast Truck Line, Pro-
testant.

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

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

BY THE COMMISSION:

O P I N I O N

R. G. Chase has made application to the Railroad Com-
mission for a certificate of public convenience and necessity
to establish an automotive truck operation for the transporta-
tion of certain commodities between Oceanside and Carlsbad, and
San Diego, Escondido, Temecula, Corona, Huntington Beach, Hynes,
Los Angeles and Los Angeles harbor district. It was stipulated
by applicant that any property so transported must originate in
or be destined to Oceanside or Carlsbad or points between the

two places. Carlsbad and Oceanside are about four miles apart.

A public hearing herein was conducted by Examiner Williams at Oceanside.

Applicant has been engaged in the trucking business at Carlsbad since March, 1918. During this period his operation has enlarged and he now employs seven vehicles in his business. According to the testimony of applicant, 80 per cent of his business is "on call" trucking in and about Carlsbad and Oceanside, consisting largely of the movement of harvested crops and orchard products from ranches to railroad sidings, warehouses and packing houses. It seems clear from the testimony of applicant and others that this portion of his entire business has not been, and is not proposed to be, conducted between fixed termini or over regular routes, but is an infrequent and sporadic service engaged in at the solicitation of individuals, and for this reason it appears unnecessary to discuss the testimony given as to this part of the operation, as it apparently comes within the scope of Decision No. 15818 on Application No. 11303 of Ben Moore.

The record, however, does indicate that applicant has established and proposes to continue certain definite operations between fixed termini and over a regular route. The testimony of applicant himself, and of O. Dannesboe, E. G. Kentner, S. A. Forman, S. D. Fraser, J. N. French, G. W. Baker, W. Earl Borden, J. P. Harris, Malon Littlefield, O. F. Roberts, R. F. Kelly, E. E. Ellery, W. T. Hart and Dr. R. S. Reed, all witnesses produced by applicant from Carlsbad and Oceanside and adjacent points, is abundantly satisfying that applicant's transportation service is required for the following commodities between fixed termini and over regular routes:

Between Los Angeles and Los Angeles harbor and Oceanside and Carlsbad, for refined oil, lumber, plaster, plasterboard and builders' hardware.

Between Hynes and Oceanside and Carlsbad, and between Huntington Beach and Oceanside and Carlsbad, for refined oil.

Between San Diego and Oceanside and Carlsbad, for water pipe, oil, lumber, live cattle and fertilizer (animal and commercial).

The testimony shows that the movement of these commodities in response to demands upon applicant has been of such a character that it requires a certificate from this Commission for its continuance. In addition to testifying to the need of the service of a local truckman for these movements, witnesses unanimously testified to the readiness of applicant to perform service immediately upon demand, and with entire satisfaction to consignees.

The proof submitted does not justify the granting of a certificate for operations between Temecula, Escondido or Corona, and the terminal points named, the operations shown between these points being infrequent, in one case no movement having been made for a year.

The granting of the application was protested by the Coast Truck Line and Boulevard Express, both operating between Oceanside and Carlsbad and San Diego and Los Angeles. Neither of these protestants operates to Los Angeles harbor, Huntington Beach or Hynes. Their protest, therefore, must be confined to the establishment of service by applicant to points which they are now authorized to serve. Protest was directed chiefly against the rate schedule proposed by applicant. The rates proposed by him are, in general, lower than those established by protestants, except on lumber from San Diego, which is 5 cents

higher per hundred than the rate now charged by Boulevard Express. Applicant amended his application to fix, as the minimum rate for any trip, the minimum shown by his Exhibit "A" for truckload capacity. Under this amendment the minimum cargo to be accepted by applicant for transportation would be equal to the rated capacity of the truck used, and in no case less than two tons.

Protestants introduced testimony showing the many schedules maintained by them, the abundance of equipment possessed by each for service between the termini in question, and their present lack of full capacity loads on the schedules maintained, also their readiness to supply equipment for special trips upon short notice.

We think the record shows that the service as maintained by the two protestant truck lines, as well as by protestant Santa Fe Railway, is adequate and efficient for the kind of through general service to which their equipment is devoted; but it must be recognized that witnesses constituting a considerable portion of the public in Carlsbad and Oceanside seek to enjoy the services of a local carrier whose equipment is at hand and available at all times for their use and who couples with this a readiness to serve the public promptly upon demand - a service which the record does not show protesting carriers in a position to provide.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the operation of a portion of the service proposed by applicant, and for this portion a certificate will be granted. As the remainder of the

operation conducted by applicant seems to be within the definition of "on call" service, as defined in the Moore decision, a certificate will be denied for this portion until such time as movements actually develop between fixed termini or over regular routes. The certificate granted in the order following this opinion is for termini and routes, and the request of applicant for the privilege of pick-up and delivery within 5 miles on either side of the routes traversed seems unnecessary, in view of the business that is entitled to be certificated. Delivery or pick-up off the highways may be conducted until such time as such movements are between fixed termini or over a regular route.

O R D E R

R. G. Chase having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a general trucking service between Oceanside and Carlsbad, and San Diego, Escondido, Temecula, Corona, Huntington Beach, Hynes, Los Angeles and Los Angeles harbor district, 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 an automobile trucking service as proposed by applicant herein, for the transportation of refined oil, lumber, plaster, plasterboard and builders' hardware between Los Angeles and Los Angeles harbor district and Oceanside and Carlsbad; re-

fined oil between Hynes and Oceanside and Carlsbad, and between Huntington Beach and Oceanside and Carlsbad; and water pipe, oil, lumber, live cattle and fertilizer (both animal and commercial) between San Diego and Carlsbad and Oceanside, in quantities of two tons or more, and for no other service, over and along the following routes:

Between Oceanside and Carlsbad and Los Angeles and Los Angeles harbor district via State highway and San Juan Capistrano, Santa Ana, Fullerton, Buena Park and Huntington Park;

Also from Santa Ana via Garden Grove, Westminster and Anaheim through Long Beach to Wilmington and San Pedro (portions of Los Angeles harbor district);

Also, diverting from the State highway at Santa Ana, via the county highway to Huntington Beach; and diverting from said highway near Hynes, to Hynes and return;

Also from Oceanside and Carlsbad to San Diego via Coast highway;

provided, however, that applicant shall transport no property or commodity as indicated above, except the same originates in or is destined to Oceanside or Carlsbad or the territory immediately between Oceanside and Carlsbad; 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 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 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 26th day of April 1926.

H. B. ...

C. ...

Leon ...

COMMISSIONERS.