

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 A. C. and F. H. FOSS for certificate)
 of public convenience and necessity)
 to establish automobile freight ser-)
 vice as a limited carrier of milk and)
 cream between Oakland and Berkeley) Application No. 11230.
 and ranches located in the vicinity)
 of Mt. Eden, Alvarado, Centerville,)
 etc., as an extension of existing)
 authority as a carrier of the same)
 commodities between San Leandro and)
 San Lorenzo and Oakland and Berkeley.)

Gwyn H. Baker, for Applicant,

M. G. Lickteig, for American Railway Express
Company, Protestant.

BY THE COMMISSION:

O P I N I O N

A. C. Foss and F. H. Foss, co-partners, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile truck line as a common carrier of milk and cream between dairy ranches in the vicinity of Mt. Eden, Alvarado, Centerville, Irvington, Newark, Mission San Jose, Niles, Decoto and Hayward to creameries in Oakland and Berkeley.

A public hearing on this application was conducted by Examiner Satterwhite at Oakland on January 14, 1926, the matter was submitted, and is now ready for decision.

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Applicant proposes to charge rates as set out in paragraph 3 of said application and to use the equipment described in paragraph 5 thereof.

Applicant proposes to operate over the following described route: Leaving Oakland via San Lorenzo through Mt. Eden, Alvarado and Centerville to Newark, thence back via Irvington, Mission San Jose, Niles, Decoto, Hayward and San Leandro to Oakland and Berkeley. This proposed service will be an extension of applicants' present service between dairy ranches located near San Leandro and San Lorenzo and creameries located at Oakland and Berkeley.

The American Railway Express Company protested the granting of said application.

Applicant called several witnesses, who testified to the public necessity for the proposed service. The evidence shows that applicant commenced the operation of this service under the provisions of the so-called Crittenden Act. It was shown that the volume of milk and cream which applicant would transport from these dairies amounts to approximately 135 to 140-10 gallon cans per day. There are two creameries in Berkeley, to-wit: South Berkeley Creamery and the Willowbrook Creamery, and two creameries in Oakland, Fenton's Creamery and Walnut Grove Creamery to which the milk and cream will be delivered.

The record shows that applicants propose to leave Berkeley on the outbound trip with empty cans about 4:00 p.m., cover the proposed route and arrive at Berkeley at about 1:00 a.m. and that it is impossible to maintain any fixed time schedule, by reason of the fact that the amount of load varies at each point. It was shown that the schedule designed to collect this milk and cream

at the dairies on the proposed route must be timed to meet the needs and requirements of both the dairies and creameries; that the transportation must be made as soon as practical after milking time and after the milk has been properly cooled, in order that it may be transported to its destination in as clean and fresh a condition as possible. It cannot be handled with other commodities without great danger of contamination, in order to meet the requirements of the State Board of Health. The record shows that a large portion of the supply of milk and cream of the entire East Bay cities is received from this particular section and the people in these communities are dependent upon an efficient truck service for their supply of milk and cream.

The American Railway Express Company introduced no oral testimony, but offered in evidence an exhibit or statement showing the trains on which said protestant operates between the points proposed to be served by said applicant.

After a careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation of the proposed service of said application and the application should be granted.

O R D E R

A public hearing having been held in the above entitled application, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by I. C. Foss and F. H. Foss, co-partners, of an automobile truck line as a common carrier of milk and cream between dairy ranches in the vicinity of Mt. Eden, Alvarado, Centerville, Irvington, Newark, Mission San Jose, Niles, Decoto and Hayward to creameries in Oakland and Berkeley, not as a separate service, but as supplementary and in addition to applicants' present operative rights between San Leandro and San Lorenzo and Oakland and Berkeley under Decision No. 11188, in Application No. 8325.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, tariff of rates and time schedules within a period of not to exceed twenty (20) days from date hereof, such tariff of rates and time schedules to be identical with those attached to the application herein; and shall commence operation of said service within a period of not to exceed thirty (30) days from date hereof.
2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, except as hereinabove stated, the effective date of this order shall be twenty (20) days

from the date hereof.

Dated at San Francisco, California, this 17th day
of May, 1926.

H. B. Bourdige

C. S. ...

E. ...

Commissioners.

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