

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of MINNIE TAYLOR for certificate of public convenience and necessity to operate freight service for milk and cream between the cities of Oakland and San Francisco and the vicinities of Tracy, Banta, Moss Dial, Manteca, Ripon, Atlanta, Turner's Station, French Camp, Stockton, Holt, Union Islands, Roberts Islands, and intermediate points.

ORIGINAL

Application No. 12782.

In the matter of the application of MINNIE TAYLOR for certificate of public convenience and necessity to operate freight service for milk and cream between the cities of San Francisco and Oakland and Dixon, Vacaville, Fairfield, Cordelia and intermediate points.)

Application No. 12794.

James M. Koford, for Applicant.

Gwyn H. Baker, for R. W. Rasmussen Co., and California Interurban Motor Carriers Association, N. D.

C. D. Clarke, for California Transportation Co. and California Navigation and Improvement Co.

BY THE COMMISSION:

O P I N I O N

By Application No. 12782 Minnie Taylor seeks a certificate of public convenience and necessity authorizing the establishment of an automobile truck service for the transportation of milk and cream between the cities of Oakland and San Francisco, on the one hand, and the vicinities of Tracy,

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Banta, Moss Dial, Manteca, Ripon, Atlanta, Turner's Station, French Camp, Stockton, Holt, Union Islands, Roberts Islands and intermediate points. At the hearing the application was amended by striking out Manteca and Ripon and substituting Calla, a town near Ripon; in addition it was stipulated that no milk or cream would be hauled by applicant from Manteca or from the territory between Manteca and Calla. The proposed rates and time schedules accompany the application, together with a description of the proposed equipment.

By Application No. 12794, Minnie Taylor seeks a certificate of public convenience and necessity, authorizing the establishment of an automotive truck service for the transportation of milk and cream between San Francisco and Oakland, on the one hand, and Dixon, Vacaville, Fairfield, Cordelia and intermediate points on the other hand. At the hearing applicant requested permission, which was granted, to add Woodland as a terminal point. Mr. M. D. Savage, who was present at the hearing, stated that he had no objection to this amendment and would dismiss his application (No. 12276), wherein he sought permission to serve Woodland among other points in the transportation of these commodities. The proposed time schedules, rates and a description of the equipment accompany the application.

A public hearing was held before Examiner Austin at Oakland on May 10, 1926, when these applications were consolidated for hearing and decision. Applicant requested and was granted ^{permission} to amend the application so as to provide for a consolidation and unification of operations throughout the territory embraced in both applications. Evidence was offered,

the matter was submitted and it is now ready for decision.

At the hearing appearances were entered on behalf of K. W. Rasmussen Co. and California Interurban Motor Carriers Association, their counsel stating that in view of the amendments made to Application No. 12782, no objection would be made to the granting of the application. An appearance was also entered on behalf of California Transportation Co. and California Navigation & Improvement Co., neither of which advanced any objection to the granting of these applications.

The applicant testified that she was the widow, and administratrix of the estate, of D. W. Taylor, who for some years had been engaged in handling milk and cream over certain routes terminating at San Francisco and Oakland authorized by previous decisions of this Commission, and as such administratrix she is now conducting this service. She stated that Taylor had previously been authorized to serve the points specified in Application No. 12794, under Decision No. 12301, in Application No. 8984, dated May 2, 1923, which provided that the certificate granted should terminate when the Crittenden Act, then pending in the legislature, became effective. Through an oversight, this service was continued after the Crittenden Act was held unconstitutional (Franchise Motor Fr. Assn. v. Seavey, 69 Cal. Dec. 473, 563; 235 Pac.1000.) and only lately was this limitation brought to her attention. She thereupon filed the present application, in order to set at rest all question as to her right to operate. Mr. Leonard Thompson, applicant's manager, described in a general way the territory served, stating that operations are now being conducted over the Tracy-Moss Dial route serving creameries in Oakland and San Francisco, which receive about 250 cans of

milk daily, of which 110 are shipped to San Francisco and 140 to Oakland. Along the Dixon route ^{milk} is hauled from various ranches to San Francisco, and also from Woodland, which is not now served by any public trucking company. For the transportation of milk, he testified, a truck service is preferable to rail or boat service, since shipments may be picked up directly at the ranches shortly after milking and hauled direct to the creameries, arriving there earlier than by rail or boat. The transportation service is performed at night when the temperature is cooler, thus preventing the development of bacteria, which is always caused by heat, due either to transportation in the day time or in hot, unventilated cars or equipment. In this way the shippers and the dairies are enabled to obtain better prices for a better product and also to comply with municipal regulations. He stated that no milk or cream will be hauled direct from the City of Stockton itself. Applicant's equipment consists of seven 3-1/2 ton and four 2-1/2 Fageol trucks, one 3 1/2 ton Kleiber truck, one Graham Dodge 1 1/2 ton truck, five trailers and three service cars.

The applicant called several witnesses, all of whom endorsed the proposed service.

P. N. Doyle, engaged in conducting a dairy near Dixon, producing about 1200 gallons a day, stated that applicant's service during the past three years had been satisfactory and dependable, and he desired it to be continued. In his judgment truck service was advantageous in that it afforded direct transportation from his dairy to the distributors in San Francisco and enabled him to deliver certified milk in San Francisco.

four hours after milking. Frequent handling is undesirable because it causes a considerable breakage of bottles. The manager of Central-Shuey Creamery, of Berkeley, which is engaged in pasteurizing and distributing milk, has found the service satisfactory and necessary in their business. Applicant has hauled about 6000 gallons of milk daily from Dixon, Tracy, Byron, Brentwood, Union Island and Holt to the creamery. In his opinion a truck service is superior to rail service, since milk can be shipped more expeditiously, it arrives in better condition, and is less susceptible to the development of bacteria, it being transported by night when the weather is cooler.

The proprietor of the Cloverdale Creamery, of San Francisco, stated that he received milk shipped over applicant's line from the vicinity of Manteca and Ripon, he has found the service satisfactory, and he believes its continuance necessary. He endorsed the testimony of other witnesses, regarding the superiority of truck over rail service for transporting milk, and also stated that because of the more expeditious return of empty cans he had been able to reduce his investment in such containers by 25 percent. Milk hauled by truck arrives at the dairy from four to five hours after milking, but when handled by rail it is not shipped until the next morning, arriving during the course of the day. As it is not pasteurized until the next morning, milk shipped by rail is at least 24 hours older when delivered to customers than that hauled by truck.

In order to insure an ample supply of milk, this dairy enters into contracts annually with producers, and because of competition with other distributors the producers change from time to time, both as to their identity and location, being scattered throughout a general territory. The manager of the Spreckels Creamery, of San Francisco, which obtains its milk from Marin county, and from farms in the vicinity of Manteca and Woodland, also testified he had found applicant's service satisfactory and superior to the rail service.

An agreement was introduced by which Taylor had acquired from Westover, Garcia & Co. a certain milk route serving Byron, Bethany, Tracy and Manteca. In addition, the Oakland manager of Fageol Motor Company testified that his firm had sold certain equipment to applicant and to Mr. Taylor and had found their credit good. He was familiar with their equipment, and stated it was maintained in good condition. In his judgment applicant is financially able to conduct this service and to acquire new equipment as needed.

While the evidence warrants the granting of the applications considered separately, the record will not warrant the authorization of the consolidation and unification of these lines into one operative right, as sought by the amendment to the applications made at the hearing.

The record does not show any demand for the

transportation of milk or cream between points described in Application No. 12782 on the one hand, and those described in Application No. 12794 on the other hand. The evidence is confined to operations over the routes described in each application, and does not indicate any movement of these commodities throughout the territory embraced in both applications, considered as a whole. In the absence of such proof, the proposed consolidation cannot be authorized.

Upon full consideration of the evidence we are of the opinion and hereby find as facts:

(1) That public convenience and necessity require the operation by Minnie Taylor of an automotive truck service for the transportation of milk and cream between San Francisco and Oakland, on the one hand, and the vicinities of Tracy, Banta, Moss Dial, Calla, Atlanta, Turner's Station, French Camp, Stockton, Holt, Union Islands, Roberts Islands, and intermediate points, provided, that no milk or cream shall be hauled from Manteca or the territory between Manteca and Calla.

(2) That public convenience and necessity require the operation by Minnie Taylor of an automotive truck service for the transportation of milk and cream between San Francisco and Oakland, on the one hand, and Dixon, Vacaville, Fairfield, Cordelia, Woodland and intermediate points, on the other hand.

An order will be entered accordingly.

O R D E R

A public hearing having been held in the above entitled applications, the matters having been duly submitted, the Commission being now fully advised, and basing its order on the findings of fact which appear in the opinion preceding this order:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by Minnie Taylor of an automotive truck service for the transportation of milk and cream between San Francisco and Oakland, on the one hand, and the vicinities of Tracy, Banta, Moss Dial, Calla, Atlanta, Turner's Station, French Camp, Stockton, Holt, Union Islands, Roberts Islands, and intermediate points, provided that no milk or cream shall be hauled from Manteca or the territory between Manteca and Calla.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to said Minnie Taylor for the establishment and operation of the service hereinabove described, subject to the conditions hereinafter set forth.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby further declares that public convenience and necessity require the operation by Minnie Taylor of an automotive truck service for the transportation of milk and cream between San Francisco and Oakland, on the one hand, and Dixon, Vacaville, Fairfield, Cordelia/^{Woodland} and intermediate points on the other hand.

IT IS HEREBY ORDERED, that a certificate of public convenience and necessity be and the same is hereby granted to said Minnie Taylor for the establishment and operation of the service hereinabove described, subject to the conditions hereinafter set forth.

IT IS FURTHER ORDERED, that said applications, as amended

at the hearing, in so far as they, or either of them seek the consolidation and unification of the operative rights herein granted, be and they are, and each of said applications is, hereby denied.

The authority herein granted, with respect to each of the certificates hereinabove set forth, is subject to the following conditions:

1. Applicant shall file her written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof; shall file, in duplicate, her time schedules, and her tariff of rates, in a form subject to the approval of the Commission, in order to conform to the amendments made at the hearing, within a period of not to exceed twenty (20) days from date hereof; and shall commence the operation of the service herein authorized 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 applicant herein unless such vehicle is owned by said applicant or is leased by her 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 9th day of

June, 1926.

H. B. Brundage
O. C. Leary

Leon Whitell

Commissioners.