

Decision No. 17317

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
D. H. SCHIFFMAN for certificate of)
public convenience and necessity to)
operate auto truck service between)
Los Angeles and Los Angeles Harbor)
on the one hand, and various points)
located in Imperial County on the)
other hand.)

ORIGINAL

Application
No. 12032

Young & Young, by Wm. K. Young, and Richard T. Eddy, for
Applicant,
Phil Jacobson, for Imperial Valley & Los Angeles Express,
Protestant,
L. C. Zimmerman, for Southern Pacific Company, Protestant .

WHITSELL, Commissioner:

O P I N I O N

W. A. Junge, successor in interest to D. H. Schiffman, in his amended application, petitions for an order of the Railroad Commission declaring that public convenience and necessity require the operation by him of a motor truck service for the transportation of waxed or oiled paper from Los Angeles and Los Angeles Harbor District (hereafter called the Harbor) to the Imperial Valley points of Westmoreland, Calipatria, Brawley, Imperial, El Centro, Holtville, Heber and Calexico.

Public hearings were held in this application at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicant alleges that he has transported oiled and waxed paper to Imperial Valley for the past four years for about fifteen firms and the service must be continued as this paper is required for lining lettuce crates when lettuce is being shipped to market.

Applicant W. A. Junge testified that the need for transportation of paper occurs in November and December and sometimes extending to January. The paper originates in the eastern mills, moving by water to the Harbor and is then distributed from that point. Oakland mills supply a small amount which is moved by rail.

Applicant states that about 90 percent of the paper moving to Imperial Valley comes from the Harbor, the balance generally coming from Los Angeles. In 1923 witness transported 350 tons and in 1925, 500 tons. In the past year 44 trips were made to Imperial Valley with waxed paper. The minimum load that will be handled is 5 tons, and all service is to be on demand. Equipment now on hand consists of 7 trucks with a total rated capacity of 28½ tons, and 6 trailers, the estimated value being about \$35,000. Some of this equipment is being used on the run between Los Angeles and the Harbor, as applicant is the owner of an operative right between these points.

Mr. R. E. Rambo, Manager for Zellerbach Paper Company, testified regarding satisfactory service received from applicant in the transportation of waxed paper from the Harbor, and Los Angeles to Imperial Valley and the care required in its handling, also the need of his company for the continuation of the service. Witness stated that the sale of waxed and oiled paper was a very competitive business in which the matter of transportation was an important factor.

Mr. F. W. Shaw, a salesman for Zellerbach Paper Company, testified that he sold paper in Imperial Valley and had been so engaged for a number of years. Sales were made with quotations F.O.B. eastern mills and estimates given on transportation charges to destination. There are 108 packing plants in Imperial Valley using waxed paper as liners for lettuce crates.

The record shows that C. V. Rohrbacher, a fruit and vegetable broker, and J. L. Pease, a traffic manager, testified in behalf of applicant. These witnesses were of the opinion that the proposed service was needed. Further informative testimony was given as to the manner of sale and distribution of waxed paper.

F. M. Hodge, General Manager of Imperial Valley & Los Angeles Express, protesting the granting of this application, testified regarding the daily special and general service rendered by his company between Los Angeles and Imperial Valley in accordance with the terms of a certificate held and issued by this Commission. Witness stated that sufficient equipment was available to care for the present business, in fact, operations were not to capacity. Some waxed paper has been hauled for different firms and additional business could have been had if the rate of 60 cents per CWT. were reduced to meet applicants offered rate.

Mr. J. S. Britten, General Freight Agent for Imperial Valley & Los Angeles Express, testified that several paper companies had been solicited for their business in the movement of paper to Imperial Valley. His company had transported waxed paper and the service rendered had been satisfactory.

L. C. Zimmerman, Assistant General Freight Agent of protestant Southern Pacific Company, testified that his company operated five merchandise package cars daily from Los Angeles to Imperial Valley points, leaving Los Angeles at 7:15 P.M. and arriving at Calexico at 2:30 P.M. of the following day.

This application, as originally filed, requested authority for the transportation of oiled or waxed paper and cotton. An amendment eliminated cotton. At the hearing applicant filed an amendment which requested authority to transport freight generally and as this amendment so materially enlarged applicant's proposed activities and did not give protestants sufficient notice to meet the new issues, the matter was continued for

further hearing at which time applicant made a final amendment eliminating all commodities except the transportation of paper.

Prior to the filing of the present application, protestant Imperial Valley & Los Angeles Express filed an application wherein it petitioned for an order declaring that public convenience and necessity required certain changes in its routes as now operated and also for authority for direct routing between Imperial Valley and the Harbor. This matter was heard and submitted prior to the hearing of the instant application. By Decision No.17283 on Application No.11863, decided August 27, 1926, Imperial Valley & Los Angeles Express was authorized, among other things, to render direct service between the Harbor and Imperial Valley.

Applicant proposes a rate of 50 cents per CWT. between Los Angeles and Imperial Valley, and from the Harbor a rate of 55 cents. The service is to be on demand, with a minimum load of 5 tons. The Southern Pacific Company quote rates from 52 to 57 cents per CWT. from Los Angeles to the different Imperial Valley points designated in the application. The minimum loading required to obtain these rates, is 18 tons per car. The maximum rate from the Harbor to Imperial Valley points is 61 cents with the same minimum loading. Imperial Valley and Los Angeles Express has a rate of 60 cents per CWT. from Los Angeles to Brawley and contiguous points, for loads of five tons or more.

Applicant Junge testified that it cost about \$85.00 to send a loaded 3 ton truck and trailer to Imperial Valley from Los Angeles. On a minimum load of 5 ton, as is offered, the revenue to be secured from a shipment from Los Angeles to Imperial Valley would be \$50.00 and from a Harbor shipment - \$55.00, which amount would result in a loss of from \$30 to \$35 on a round trip movement between Los Angeles or the Harbor and Imperial Valley.

Mr. F. M. Hodge, testifying for Imperial Valley & Los Angeles Express, stated that his company figured that it cost \$125.00 to send a truck and trailer for a round trip from Los Angeles to Imperial Valley, and when leasing like equipment for that trip, the cost ranged from \$125.00 to \$135.00.

The record in this proceeding has been given careful consideration and it appears that the offer of lower rates is of importance to the witnesses who favor the granting of this application. The Commission, however, has heretofore decided, and I believe rightly, that the offer of a lower rate by an applicant than that in effect by a carrier now in the field is not conclusive as a showing of public convenience and necessity.

The evidence in this matter does not indicate that the proposal of applicant is on a sound economic basis and I am, therefore, of the opinion and hereby find as a fact that applicant has failed to show that public convenience and necessity justify the granting of the application and, therefore, the certificate prayed for must be denied.

Herewith a recommended form of Order :

O R D E R

Public hearings having been held on the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised and basing its order on the statements and finding of fact as set forth in the opinion which precedes this order:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity do not require the operation by W. A. Junge of a motor truck service for the transportation of oiled or waxed paper from Los Angeles or Los Angeles Harbor to Imperial Valley points as such points are more fully set out in the preceding Opinion: and

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

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

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1926.

H. H. Brandeis
O. L. Sewell
Frank West
Leon Whittell
Thos. R. ...
COMMISSIONERS.