

Decision No. 17451

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of W. H. MARSHALL and L. A. THORNE-
WILL for certificate of public con-
venience and necessity.

APPLICATION NO. 12407.

DeLancy C. Smith and A. B. Roehl, for Applicant.

G. H. Baker, for Highway Transport Company,
Protestant.

B. D. M. Greene, for J. M. Ward, Protestant.

H. A. Encell and J. A. Miller, for Coastside
Transportation Company, Protestant.

Edward Stern, for American Railway Express, Pro-
testant.

L. N. Bradshaw, for Southern Pacific Company,
Protestant.

BY THE COMMISSION:

O P I N I O N

W. H. Marshall and L. A. Thornewill, co-partners, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of a motor truck freight service over the public highways in the territory between Capitola on the south and San Francisco on the north.

A public hearing herein was conducted by Examiner Williams at Santa Cruz.

Previous to the hearing applicant Marshall disposed of his interest in the business to applicant Thornevill, who appeared as sole applicant in the proceeding.

Applicant, as a partner of Marshall, began the business of transporting certain commodities from Santa Cruz and vicinity to San Francisco during the period when the so-called Crittenden amendment to the Auto Stage and Truck Transportation Act exempted the transportation of such commodities from regulation by this Commission, and he has continued in the business since about June 1, 1923.

Applicant proposes the transportation of berries, fruits, vegetables, poultry and eggs from Santa Cruz and Capitola to San Francisco, and the transportation of grapes and plums from Alma to San Francisco, with a return movement of mill feed in sacks, and empty containers (free) from San Francisco to Santa Cruz and Capitola. No commodities are to be transported to or from or between any points between San Francisco and Alma.

L. A. Thornevill, applicant herein, testified that he possesses four trucks, valued at \$12,000, free of encumbrance, and that the business has been profitable, the gross receipts amounting to about \$20,000 annually. According to his testimony, the service performed consists of keeping the growers and producers advised of market demands in San Francisco, and the prompt transportation of commodities to the market. The commodities are picked up by applicant at ranches and farms in and about Santa Cruz and as far south or east as Capitola, late in the afternoon or early evening, and are

transported to San Francisco, arriving there about midnight, in time to reach the earliest market available. According to applicant, the ability of this service to make late pick-ups permits the use of pickers in the fields for a full day's work, and also permits the transportation of the entire daily crop, while fresh, to the San Francisco market, with delivery at the various commission houses. That this is an important service, regardless of the rates offered by applicant, was the testimony of C. W. Rose, a farmer residing near Soquel; Guy Stephenson, a berry grower of Capitola; John C. Young, a mushroom grower of Santa Cruz; William R. Jones, a berry grower of Soquel; Clayton R. Shipway, a poultry dealer of Santa Cruz; and William A. Burnett, a grain dealer of Santa Cruz.

John Hauschildt, manager of the Santa Cruz Farm Bureau, composed of 600 members, testified that applicant's service is very satisfactory and necessary for the industries represented in the Bureau. He testified that the Bureau members ship approximately 700 tons monthly by rail and 30 to 40 tons by applicant's service. Similar testimony was given by Charles W. Scott of Santa Cruz, manager of the Poultry Producers' Association of Central California, with 275 members, a large proportion of them being in business in and about Santa Cruz. These members place their products in the Association's warehouse, from which regular pick-up is made by applicant for delivery at San Francisco. Applicant's ability to receive consignments up to a late hour and deliver them at San Francisco in time for the earliest market was described by this witness as the chief advantage of his service and as the Association's

principal need. The poultrymen require no return movement.

The granting of the application was protested by the Southern Pacific Railway, American Railway Express and Coast-side Transportation Company.

Protestant Southern Pacific Railway receives freight at its San Francisco terminal until 4:00 p. m. daily and delivers the same at its platform in Santa Cruz at 8:00 a. m. the following day. Consignees are required to call for and transport shipments from the terminal. According to the testimony of Frank H. Stikeman, a grocer at Santa Cruz for thirty years, and O. Fightmaster, another Santa Cruz grocer, this service is adequate for all their purposes, and they expressed opposition to the addition of any service that might impair the rail service. These shippers receive a freight allowance of 15 cents per 100 pounds on shipments from San Francisco, the difference being absorbed by the consignors.

Protestant American Railway Express, through its Santa Cruz agent, Clarence F. Sollars, testified that it maintains a free collection and delivery service over four square miles in Santa Cruz, including all of the business section, with six pick-ups and deliveries daily, and that the commodities which applicant is asking permission to haul are transported by this protestant at night in ventilated cars with open doors, in order that they may reach the market in acceptable condition. Shipments are received by this protestant up to 6:50 p. m. daily. Shipments from San Francisco to Santa Cruz are received at 8:15 a. m. daily and are delivered before 11:30 a. m. This protestant does not make ranch pick-ups or

handle mill feeds.

Protestant Coastside Transportation Company, operating from San Francisco to Santa Cruz via Pescadero, according to the testimony of Thomas W. Springett, its auditor, maintains freight service between Pescadero and Santa Cruz and between Pescadero and San Francisco by separate operations. This service, according to the witness, leaves Santa Cruz at 9:30 p. m., and, after transfer at Pescadero, reaches San Francisco at 5:30 a. m. and is thereafter delivered to consignees. The highway over which this operation is conducted is not improved, and during portions of the year is impassable. Exhibits filed by this protestant show no segregation of its business from Santa Cruz or from points between Santa Cruz and Davenport, hence the record is not clear as to what quantity, if any, of the commodities which applicant seeks authority to transport have moved by protestant's service.

Before the hearing ended applicant amended his rate schedule as shown in Exhibit "A" attached to the amended application by inserting a rate on mushrooms of 12 cents per crate of 10 pounds net.

The service proposed by applicant is one which was established by him in good faith during the period when the transportation of farm products was exempt from regulation by this Commission, and applicant has made a large investment in establishing and maintaining the service. The record seems perfectly clear that it is a service that is needed and useful to certain industries in and about Santa Cruz, and that it differs from any other service now being given by any other carrier. It is also

clearly shown that the service has been conducted efficiently and that a very substantial portion of the public desires its continuance as proposed by applicant, in addition to all other forms of service now available.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the establishment and operation of the service proposed by applicant Thorne-will, and an order granting a certificate therefor accordingly will be entered.

O R D E R

L. A. Thorne-will having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an auto truck line for the transportation of property for compensation between Capitola and San Francisco, and certain intermediate points via Santa Cruz, 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 auto truck line as proposed by applicant, for the transportation of berries, fruits, vegetables, poultry and eggs from Santa Cruz and Capitola to San Francisco, and grapes and plums from Alma to San Francisco, and a return movement of mill feed in sacks, and empty containers (free), from

San Francisco to Santa Cruz and Capitola, and for no other commodities or service, over and along the following route:

Over the State highway from Capitola and Santa Cruz to San Francisco via Glenwood, Alma and Los Gatos, and over the main county highway between Los Gatos and San Francisco via Saratoga and Sunnyvale; and returning over identically the same route; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same is hereby 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 amended 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 13th day of October 1926.

H. R. Rindge

W. S. Sweeney

Leon A. Hall

Thos. D. Lovett
COMMISSIONERS.