

ORIGINAL

Decision No. 17488

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of HIGHWAY TRANSPORT COMPANY, for)
an extension of its operative)
rights from San Juan to Watson-)
ville and Santa Cruz.)

APPLICATION NO. 12134.

G. H. Baker, for Applicant.

L. W. Bradshaw, for Southern Pacific Rail-
way, Protestant.

Edward Stern, for American Railway Express,
Protestant.

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

Wyckoff & Gardner and Devlin & Brookman, for
Clark Bros., Protestants.

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

BY THE COMMISSION:

O P I N I O N

In this proceeding the Highway Transport Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require an extension of applicant's operative rights from San Juan to Watsonville and Santa Cruz.

Public hearings herein were conducted by Examiner Williams at Santa Cruz, San Jose and Watsonville.

Applicant now conducts an operation between San Francisco and San Jose and points as far south as Hollister,

Salinas and Monterey, for the transportation of all classes of freight, as provided in Decision No. 15328 on Application No. 10938.

As amended at the hearing, applicant "now seeks authority to transport freight by automobile truck to and from Watsonville and Santa Cruz and intermediate points, except Los Gatos, on the line of the highway from San Jose via Los Gatos, Santa Cruz, Watsonville, through Chittenden Pass, back to San Juan, as a part of and as an extension of its present operative rights."

According to applicant's Exhibit "A" attached to the application, the rates to be charged for this service between San Francisco and Watsonville and Santa Cruz are the rates already provided in applicant's Tariff C. R. C. No. 4 between San Francisco and Hollister and between San Jose and Watsonville and Santa Cruz, a rate in each instance 5 cents per 100 pounds higher than the rates named in applicant's Local Freight Tariff No. 4 between San Francisco and Hollister. The equipment now used in the general service of applicant is to be used in the proposed extension, with such additions as may be necessary.

The effect of the enlargement of applicant's operative rights would be to permit freight from San Francisco and San Jose to be transported to Santa Cruz and Watsonville, thence via Chittenden Pass to San Juan, where the extension would again join the operative rights of applicant.

By stipulation filed at the hearing, applicant withdrew its request for authority to transport berries, veg-

etables, green fruits, poultry and eggs between Aptos and Santa Cruz and all intermediate points, to and from San Francisco, and upon this stipulation the protest of J. M. Ward was withdrawn; also, by stipulation with Clark Bros., protestants herein and applicants in Application No. 12636, applicant withdrew its request for authority to conduct any movement northbound for the same commodities from any points between Aptos and Betabel, including Watsonville and the Pajaro Valley, and upon this stipulation the protest of Clark Bros. was withdrawn.

According to the testimony of George L. Carmichael, manager of the applicant corporation, applicant has 57 pieces of equipment, including trailers, available for service, of which 30 pieces are actively engaged in main line and pick-up and delivery service, and 27 are a reserve used in draying in and about San Jose. The ability of applicant to perform the service proposed was not questioned at the hearings. Mr. Carmichael testified that the application was filed in response to many and continued demands, on the part of the shippers now being served to other points, for the additional service. It appears that many San Jose and San Francisco shippers now use their own trucks or hire vehicles to make deliveries along the route and to the communities involved in this application, and that the volume of their business has reached such magnitude that they desire an authorized carrier under regulation to conduct this service, thus permitting withdrawal of their own equipment and termination of more or less precarious temporary arrangements.

In support of this position, applicant introduced as witnesses from San Jose, Ted Streif of the A. G. Col Com-

pany; H. H. Ledyard, sales manager of the Keystone Company, wholesale grocers; Louis J. Marymont, manager of the San Jose Paper Company; Carl S. Parker of Parker & Marlow, wholesale fruits; George J. Heath, manager of the Henry Cowell Lime & Cement Company; Thomas J. Trodden, sales manager of the Walsh-Col Company, wholesale grocers; T. J. Delmas, wholesale paper dealers; Cyril Enright, of the San Jose Hardware Company; George L. Stearns, district manager of the California Spray Chemical Company; Jos. C. Jewett, manager of A. G. Col Company; J. C. Hayes of Blase Bros., fruits and produce; Robert H. Borchers of Borchers Bros., building materials and fuel; and G. B. Sterling, office manager of the California Packing Corporation.

It appears from the testimony of these witnesses that there is already moving over the route sought by applicant a large quantity of commodities transported by shippers' own trucks or by private carriers, and that the shippers who are now using applicant's service, which in each instance the witnesses declared was satisfactory and necessary, require its extension in order to consolidate loads destined to applicant's San Jose terminal for distribution by applicant. It appears clear from the testimony of these witnesses that a substantial portion of the shipping public at San Jose, at least, requires an extension of the facilities and service of applicant, and that the extension will absorb in a large part, if not wholly, the present movement of freight by truck facilities which are not now under regulation of this Commission.

The testimony of these witnesses was supplemented by the testimony, on cross-examination, of witnesses for other applicants, presented at Santa Cruz and Watsonville, and also by the original testimony of R. I. Lease, wholesale grocer and general merchant of Santa Cruz, and T. J. Ebert, dry goods dealer of Santa Cruz.

The granting of the application was protested by the Southern Pacific Railway and the American Railway Express, maintaining service into all the points sought by applicant, and by the Coastside Transportation Company, which conducts a service between San Francisco and Santa Cruz by way of Pescadero. It appears quite plain from the record that the service of both the Southern Pacific and the American Railway Express is adequate and efficient, so far as a rail service may be; but it is also apparent that there is a lack of delivery of freight except at terminals or railroad sidings, and infrequent delivery where there are no stations, and that in many cases the American Railway Express does not provide distributing facilities. These deficiencies on the part of the rail service seem to the shippers to be fully met by the store-door delivery proposed by applicant.

Protestant Southern Pacific based its protest largely upon the assumption that San Jose shippers, by establishing truck service into Santa Cruz and Watsonville and other territories, sought to offset the geographical advantages possessed by shippers at Watsonville, and that the necessity for applicant's proposed service arose from this attempt to equalize rates and thereby equalize competitive conditions. The same point was

raised by this protestant in the application of Clark Bros. (Application No. 12636) and is disposed of in the decision on that application. We believe the same situation exists in the present proceeding, and that the protest of Southern Pacific Railway in this respect is misdirected and ineffective.

We therefore find as a fact, upon the record herein, that the service proposed by applicant in its amended application and as modified by stipulations with certain protestants, is required by public convenience and necessity, and that a certificate therefor should be granted. An order will so provide.

O R D E R

Highway Transport Company, a corporation, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require an extension of applicant's operative rights from San Juan to Watsonville and Santa Cruz, public hearings 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 service proposed by applicant in its amended application, for the transportation of all classes of freight (except berries, green fruits, vegetables, poultry and eggs, from Aptos, Santa Cruz and all intermediate points to and from San Francisco; also except the same commodities northbound from Aptos to Betabel and all intermediate points) between San Jose and

Santa Cruz and Watsonville and intermediate points, except Los Gatos, on the line of the highway from San Jose via Los Gatos, Santa Cruz, Watsonville, Chittenden Pass and San Juan, as an extension and enlargement of its present service as authorized by Decision No. 15328, over and along the following route:

By main highway via Los Gatos, Santa Cruz, Watsonville, Chittenden Pass and San Juan;
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 (10) days from date hereof, its written acceptance of the certificate herein granted, together with a stipulation that said certificate is accepted as an extension and enlargement of its present operative rights as granted by Decision No. 15328, and not as a new or separate right.
- II. Applicant shall file, in duplicate, time schedules and tariff of rates identical with those 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.
- III. 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.
- IV. 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. B. ...
P. ...
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Leon ...
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COMMISSIONERS.