

Decision No. 17515

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
HARRIS & DEVINE for certificate of  
public convenience and necessity to  
operate a freight line between Rio  
Linda and Sacramento; Blake's Sta-  
tion and Sacramento; and within a  
radius of fifteen (15) miles of the  
Town of Rio Linda, Sacramento County,  
California.

ORIGINAL

Application No. 11252

Butler, Van Dyke & Desmond, by Gerald M. Desmond,  
for Applicant.  
F. L. Carsner, for Central California Traction  
Company, Protestant.  
Theo. W. Chester, for Sacramento Northern Railroad  
and Western Pacific Railroad  
Company, Protestants.  
Edward Stern, for American Railway Express Company.

BY THE COMMISSION:

O P I N I O N

Marvel A. Harris and James H. Devine, co-partners doing  
business under the name of Harris & Devine, have petitioned the  
Railroad Commission, in accordance with their amended application,  
for an order declaring that public convenience and necessity re-  
quire the operation by them of an automobile truck line as a  
common carrier of farm products between Rio Linda and Sacramento  
and between Blake Station and Sacramento.

1.

A public hearing on this application was conducted before Examiner Satterwhite, the matter was submitted and is now ready for decision.

Applicants propose to charge rates in accordance with Exhibit "A" attached to said application and to use the equipment described in Exhibit "C" attached thereto.

Applicants do not propose to maintain any regular time schedule between the points proposed to be served on the basis that the maintenance of a regular time schedule would be impracticable.

The Central California Traction Company, the Sacramento Northern Railroad Company, the Western Pacific Railroad Company and the American Railway Express protested the granting of said application.

The record shows that applicants have engaged in the hauling of farm products between the points proposed to be served ever since the passage of the so-called "Crittenden Bill", recently declared unconstitutional by the Supreme Court of this State. The operations of applicants consist primarily in the transportation of eggs between the points proposed to be served. Rio Linda is located about ten miles north of Sacramento on the electric line of the Sacramento Northern Railroad. Blake Station is located 24 miles south of Sacramento on the electric line of the Central California Traction Company.

The evidence shows that the Rio Linda Poultry Producers Association owns and operates a warehouse at Rio Linda, which warehouse is located upon a switch of the rail line of the

Sacramento Northern. This association is made up of poultry farmers, owning land and raising chickens in the vicinity of Rio Linda. It appears that applicants haul the eggs from the various ranches situated in this locality to this warehouse at Rio Linda and the farmers also do some of their own hauling of eggs and farm products to the warehouse, but in all instances the eggs are transported by applicants from the warehouse at Rio Linda to the warehouse and grading station of the Poultry Producers Association of Central California located at Sacramento.

The record shows that applicants have hauled on an average of from 30 to 100 tons of eggs per month throughout the year to Sacramento from Rio Linda. The back-haul to Rio Linda consists of bran, meat scrap and occasionally buttermilk and the back-haul from Blake's Station consists only of empty crates. The farmers favor this truck service on the ground that it affords a more direct and expeditious service to the Poultry Producers Association at Sacramento, and for the past four years have employed the applicants under a contract with the Rio Linda Poultry Producers Association to transport their eggs and other farm produce to the warehouse of the Poultry Producers Association of Central California at Sacramento.

The Sacramento Northern Railroad offered in evidence its time schedules and freight rates in effect on its line between Rio Linda and Sacramento. This protestant offered evidence showing that it operates a freight train daily between Rio Linda and Sacramento, leaving Rio Linda between 5:00 a.m. to 7:00 a.m. and also three express trains daily in each direction between Rio

Linda and Sacramento. The evidence shows that this protestant maintains a freight station in charge of a regular agent at Rio Linda throughout the year and that this station has ample capacity to handle all eggs or other farm produce which is shipped by the Rio Linda Poultry Association to Sacramento.

L. I. McKim, Assistant General Passenger Agent of the Sacramento Northern Railroad, testified to the effect that this protestant renders an adequate and satisfactory service in every respect and has ample facilities to handle all egg shipments, as well as any farm produce from Rio Linda to Sacramento and is willing, and has always been willing, to furnish all necessary equipment and maintain schedules suitable to its patrons, as well as the general public, and moreover this applicant indicated its willingness to increase its facilities, if necessary, to handle all freight shipments from Rio Linda to Sacramento. It was shown that this protestant has always handled adequately large shipments of eggs from various points on its rail line. The record further shows that this protestant operates its freight cars direct from its station and warehouse at Rio Linda to the warehouse and grading plant of the Poultry Producers Association of Central California at Sacramento, by reason of the fact that it has direct switching connections with the Western Pacific Railroad Company, which rail line operates direct to the warehouse of the Poultry Producers Association of Central California located at 20th and D Streets in Sacramento. It was shown that a freight car of the Sacramento Northern Railroad can be transported from the warehouse of the Rio Linda Poultry Producers Association at Rio Linda to the warehouse and grading plant of the Poultry Producers Association of

Central California at Sacramento within three to five hours.

The record shows that the California Central Traction Company does not maintain a warehouse at Blake Station, nor a station agent, and no direct rail service is afforded for shipments of eggs from Blake Station to the Poultry Producers Association of Central California, Sacramento. Farmers residing near Blake Station who desire to ship their eggs to the City of Sacramento would be compelled to be at the Central California Traction Company's station at Blake Station upon the arrival of trains and personally attend to the loading and shipping of their farm products, resulting in considerable loss of time and inconvenience by the necessity of making a daily trip to Blake Station from their ranches. This is not the situation at Rio Linda. The farmers in the vicinity of Rio Linda haul their eggs direct to the Rio Linda warehouse where they are stored until transported either by truck or by rail to the Poultry Producers Association of Central California at Sacramento.

This Commission has repeatedly held on applications for certificates of public convenience and necessity, particularly where an additional truck service is proposed which will virtually parallel an existing carrier, that a clear and affirmative showing must be made that the existing transportation facilities of such carriers are inadequate or unsatisfactory, and such a showing has not been made by applicant in support of its proposed service from Rio Linda.

After a careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a

fact that the public convenience and necessity require the proposed freight service of applicants between Blake's Station and Sacramento, but that it does not require the proposed service of applicants between Rio Linda and Sacramento.

### O R D E R

A public hearing having been held in the above entitled application, the matter having been duly 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 Marvel A. Harris and James H. Devine, co-partners, doing business under the name of Harris & Devine, of an auto truck line as a common carrier of farm products between Blake's Station, California, and Sacramento, California, but that public convenience and necessity do not require the proposed operation by Harris & Devine as a common carrier of farm products between Rio Linda and Sacramento, California.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the foregoing freight service between Blake's Station and Sacramento 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.

IT IS HEREBY ORDERED that the proposed freight service of applicants between Rio Linda and Sacramento be and the same is hereby denied.

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 21<sup>st</sup> day of October, 1926.

W. B. ...  
C. ...  
Leon ...  
Thos. ...  
Commissioners.