

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BENJAMIN S. GOLDBERG and A. G. SPANN, co-partners, doing business under the firm name and style of GOLDBERG & SPANN, for a certificate of public convenience and necessity to operate express service between Los Angeles and Chula Vista and points intermediate and contiguous thereto.

ORIGINAL

Application
No. 12486

- A. P. Michael Narlin, by H. K. Lockwood, and Hardy, Elliott & Aberle, by Rex Hardy and Fred Aberle, Jr., for Applicants,
- H. J. Bischoff for Coast Truck Line, Protestant,
- A. S. Weston for American Railway Express Company, Protestant,
- Warren E. Libby for Boulevard Express, Triangle Express, and Pickwick Stages System, Protestants.

BY THE COMMISSION -

O P I N I O N

Benjamin S. Goldberg and A. G. Spann, co-partners, doing business under the firm name of Goldberg & Spann, by their amended application have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile service for the transportation of motion picture films, theatre lobby displays, slides and advertising matter between Los Angeles and Whittier, Fullerton, Anaheim, Santa Ana, San Juan Capistrano, Oceanside, La Jolla, Ocean Beach, San Diego, National City, Chula Vista, and intermediate points.

Public hearings on this application were conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicants propose to charge rates in accordance with a schedule marked "Exhibit A" as attached to and forming a part of the amended application; to operate on a schedule of one round trip daily, using as equipment two pneumatic tired Dodge trucks, each of three-quarter ton capacity.

Applicants rely as justification for the granting of the desired certificate upon the following alleged facts:- that there are 38 theatres in the cities proposed to be served that desire and need the proposed service in the transportation of motion picture films, theatre lobby displays and general program supplies; that all such theatres rent films and program supplies from motion picture film exchanges in the City of Los Angeles, which films are transported from Los Angeles to the various points or are interchanged between such points if so routed by the exchanges; that the present authorized carriers are not able to give the specialized service necessary to accomplish a proper and adequate handling of films and program accessories; that applicants for a long period have specialized in the handling of such business between film exchanges and theatres in the City of Los Angeles; that by the use of the proposed service theatre owners will be adequately served in that films and accessories will be picked up and taken from the theatres at any hour and will be placed in the theatres, the applicants' drivers to be furnished with keys enabling access to the theatres at any hour.

Applicants do not desire authority to transport freight or express matter but propose confining their business exclusively to the handling of motion picture films, theatre lobby displays and theatrical advertising matter.

Mr. B. S. Goldberg, one of the applicants, testified that applicants were now engaged in the transportation of motion picture films and accessories in the City of Los Angeles serving 18 film exchanges and using ten pieces of equipment in

such service. An office is maintained at 1930 South Vermont Avenue. The net worth of the partnership is approximately \$20,000. The witness described the proposed method of operation and the facility to be afforded applicants' patrons by reason of deliveries and pick-ups being made at hours when theatre owners or film distributors are not present, applicants being furnished keys to the theatres and shipping rooms and being responsible for the proper handling of shipments.

Applicants are now operating a local service in the City of San Diego, assembling shipments in Los Angeles and transporting them to San Diego via the American Railway Express Company as a lot shipment, then distributing to the ultimate consignees at San Diego and its vicinity. Films are also picked up in San Diego and returned to Los Angeles by the same method. The present application would substitute the equipment of applicants for the intermediate service now rendered by the American Railway Express Company and also enable applicants to serve theatres at points intermediate between Los Angeles and San Diego. The present method ^{of} handling is not profitable to applicants and is conducted at a cost less than the revenue received. Witness is of the opinion that the proposed service will be compensatory for applicants and of material advantage to the theatre owners who are required to defray the cost of transportation on films and accessories.

Mr. C. J. Marley, branch manager of Peerless & Progress Film Exchange of Los Angeles, testified that his exchange made a specialty of display advertising and had shipments to San Diego from 6 to 8 times monthly. Intermediate communities could be given direct service by the proposal of applicants. Witness has no complaints against the service as heretofore rendered by American Railway Express Company or Triangle Orange County Express.

Mr. Walter Wessling, Los Angeles branch manager of Pathe Exchange, testified that his exchange furnished films to all San Diego theatres with one exception; that he had heretofore used the service of applicants, the American Railway Express Company and the Triangle-Orange County Express. The witness favored the granting of the application for the reason that applicants were responsible, being under bond to the Los Angeles Film Board of Trade, and because a duplication of handling films would not be required under applicants' proposal.

Mr. B. M. Bernstein, proprietor of Southern Poster Rental Company, handling advertising accessories for moving picture theatres, testified in behalf of applicants. Witness now rents displays to theatres in San Diego, Fullerton, Whittier, La Jolla, Occanside and San Juan Capistrano. The advertising displays are stated to be extremely fragile and require considerable care in handling to avoid damage in transportation.

Witness now uses the service of the applicants and that of the Triangle-Orange County Express. Shipments via American Railway Express Company have been handled satisfactorily, but objection is made as to additional messenger charge necessary on rush shipments when delivery is made direct to or taken from the railroad terminal, which would not be necessary under applicants' proposed operation. Some complaint exists as to the service as heretofore given by the Triangle-Orange County Express.

Mr. C.M. Peacock, manager of the Famous Players-Lasky Film Distributors, testified that he had business transactions with 9 theatres in San Diego and also with theatres in other communities proposed to be served by applicants. While he had no complaint as to the service rendered by existing authorized carriers, he was of the opinion that the proposed service would be useful to his distributing agency.

Mr. H. J. Siler, residing in Whittier and the proprietor of two theatres there, testified that his films were now handled to and from the depot of the Motor Transit Company in Los Angeles by the applicants, and by the Motor Transit Company between Los Angeles and Whittier. On Sundays applicant uses the facilities of the Triangle-Orange County Express and has done so for the past three years. Some damage to advertising posters had occurred in their transportation on the Motor Transit Company.

Mr. C. E. Walker, a theatre manager at Santa Ana, testified that he was manager of two theatres at that point, that he had used the service of the Triangle-Orange County Express and had found such service very satisfactory having had but one failure in pick-up.

Mr. D. S. Mitchell, branch manager of Universal Film Exchange and President of the Los Angeles Film Board of Trade, testified that his exchange served all theatres in San Diego and at intermediate points. Shipments have been forwarded via American Railway Express Co. and the Triangle-Orange County Express. Recently the service of applicants has been used by having the pick-up and delivery in San Diego and Los Angeles performed by them and the American Railway Express Company handling between the rail terminals.

The Triangle-Orange County Express is used for shipments between Los Angeles and points intermediate between Los Angeles and San Diego. Service of the Motor Transit Co. is used but infrequently for the reason witness is of the opinion that full regard is not given by such company to the necessity for prompt handling of such shipments. Witness expressed the opinion that no other transportation company is in a position to satisfactorily render the service as proposed by applicants, basing his opinion on the desire of film distributors to secure as far as may be possible, personal service in the handling of

their shipments in addition to the transportation.

Two theatre owners testified in behalf of the application, operating theatres at Santa Ana and San Diego. They were of the opinion that the proposed service would be advantageous to them, although having no complaint as to the service of present^{ly} authorized carriers.

The granting of the application is protested by American Railway Express, Coast Truck Line, Boulevard Express, and Pickwick Stage System.

Mr. S. B. Cowan, proprietor of Triangle Orange County Express, testified that he offered service leaving Santa Ana at 6:00 A.M., arriving Los Angeles at 9:00 A.M., returning leaving Los Angeles at 1:00 P.M. Also leaving Los Angeles for Fullerton and Anaheim at 11:00 A.M., arriving in time for afternoon performances. Another service for Whittier, Fullerton and Anaheim leaves Los Angeles at 3:00 P.M. with arrivals between 6:00 and 7:00 P.M. Still another service leaves Los Angeles between midnight and 1:00 A.M. This protestant is operating a special vehicle in this service, the driver of which has keys to the theatres enabling him to pick up and deliver films at hours when theatre owners or employees are not present.

Six witnesses, proprietors of theatres in Anaheim, Orange, Fullerton, Santa Ana and La Habra, testified as to the excellent service rendered by this protestant.

Protestants, American Railway Express Co., Coast Truck Line, Boulevard Express and Pickwick Stages System presented no evidence but cross-examined witnesses for applicant.

After full consideration of the record herein we are of the opinion that applicants have made no showing of public convenience and necessity for the establishment of the proposed service which would justify the granting of the desired certificate. Applicants have for some time conducted a film distribution service in the city of Los Angeles which has met with approval of their patrons. A similar service has recently been inaugurated in the

city of San Diego between the railroad station office of the American Railway Express Company and the various theatres in San Diego. It is now the desire of applicants to handle films and accessories from Los Angeles to San Diego and return, serving also the intermediate communities between such termini. We find no justification from the record which would warrant the granting of a certificate by reason of the satisfactory service heretofore rendered by the protestants, particularly as regards service to intermediate points as rendered by the Triangle-Orange County Express. No complaint exists regarding the service to the San Diego theatres as now rendered by a combination of applicants' service from the Los Angeles film exchanges to the railroad station, thence via American Railway Express Company to San Diego, and delivery from the San Diego railroad station to the theatre destinations. The applicants claim to have operated the San Diego portion of their business unprofitably, but we see no justification, other than the desire of the applicants for a certificate, for the establishment of a motor truck service between Los Angeles and San Diego for the transportation of the commodities herein proposed, the record indicating that satisfactory service is already available by existing transportation facilities.

O R D E R

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission now being fully advised and basing its order on the statements of fact as appearing 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 Benjamin S. Goldberg and A. G. Spann, co-partners, doing business under the firm name and style of Goldberg & Spann,

of an automobile truck service as a common carrier of motion picture films and theatrical accessories between Los Angeles and Chula Vista and intermediate points, and

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

Dated at San Francisco, California, this 12th day of November, 1926.

John B. ...

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Thomas B. ...
COMMISSIONERS.