

ORIGINAL

Decision No. 17634

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of SERVICE DRAYAGE & WAREHOUSE COM-)
PANY (a corporation) for certificate)
of public convenience and necessity)
to operate freight truck service be-)
tween Los Angeles and Los Angeles)
harbor and Long Beach harbor, also)
between Los Angeles and Alhambra,)
Pasadena, Glendale, Santa Monica and)
Long Beach.)

APPLICATION NO. 11856.

Richard T. Eddy, for Applicant.

Phil Jacobson, for Richards Trucking & Warehouse Company, Los Angeles & San Pedro Transportation Company, City Transfer & Storage Company of Long Beach, Walker Truck Company, Griffith Transportation and Warehouse Company, Alhambra Transfer & Storage Company, Joe & Ed's Express and Sierra Van & Storage Company, Protestants.

D. W. Layne, for Southern Pacific Railway and Pacific Electric Railway Company, Protestants.

A. S. Weston, for American Railway Express, Protestant.

BY THE COMMISSION:

O P I N I O N

Service Drayage & Warehouse Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by applicant of an auto freight service between Los Angeles and Los Angeles harbor and Long Beach harbor, and between Los Angeles and Alhambra, Pasadena, Glendale, Santa Monica and Long Beach.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

The applicant corporation was organized in 1924 for the purpose of acquiring from W. C. Warnick a drayage and storage business which Warnick had operated for many years prior to May 1, 1917. Applicant owns a warehouse at 1329 Palmetto Street, Los Angeles, and according to the testimony of M. A. Casenave, president of the corporation, has transportation equipment valued at about \$20,000. on which, at the time of hearing, there was an indebtedness of approximately \$6,000. Applicant has always conducted a large drayage business, particularly on commodities to be stored in its warehouse and distributed therefrom.

Mr. Casenave testified that the drayage business conducted had been believed to be outside the jurisdiction of the Railroad Commission, and for this reason a certificate had not been applied for earlier. With the increase in business after acquisition by the corporation, applicant had been advised that its operations, particularly between Los Angeles and Los Angeles harbor, and between Los Angeles and Pasadena, Alhambra and Glendale, were movements for which a certificate of public convenience and necessity is required.

Mr. Casenave explained that applicant has hauled imports from the harbor to Los Angeles for the American Import Company for about two years, and for periods of a year or more has hauled for the Dohrman Commercial Company, the Pacific Bag Company, Hylan Bag Company, the Cupples Company, Baker-Hamilton Company and Rytol Oil Company, and that the transportation in

each case was from the harbor to the warehouse, under consignment to applicant for distribution. Applicant's warehouse is on a Santa Fe spur track and rail shipments are received on this spur track consigned to applicant, and from there distributed to Pasadena, Alhambra, Glendale and other points. Mr. Casenave testified that all these movements to and from the warehouse are under verbal or written contracts with the parties; however, applicant submitted no proof of any written contract.

While applicant's business is a continuation of one alleged to have been established prior to May 1, 1917, applicant did not attempt to establish its operations under prescriptive right.

Gilbert E. Foy, Los Angeles agent of the Hylan Bag Company, testified that his company receives shipments of sacks from San Francisco by water and that these shipments are transported by applicant from the harbor to its warehouse in Los Angeles, from which point distribution is made. The volume of this business, witness testified, is approximately 200 to 250 tons a year. The witness stated that he had previously used the service of the Wade Truck Company, operating under a certificate from this Commission, and was paying the same rate to applicant that he had paid to the authorized carrier. Witness testified that his company does not ship by truck from Los Angeles.

Carl E. Anderson, traffic manager of the Dohrman Commercial Company, testified that applicant is transporting 60 per cent of all freight received by his company at the harbor and destined to Los Angeles by truck. The commodities

transported include glassware, crockery, china, art goods and other merchandise equally fragile. Witness testified that applicant makes exception to all breakage by water transit and shortages at the harbor. He further testified that his company has its own trucks for distributing purposes.

Charles M. Bridgeford, Southern California manager of the Rytol Oil Company, testified that the company receives shipments of oils and greases in barrels, drums and cans from Bayonne, New Jersey, all consigned to the applicant. The consignments are warehoused with applicant and deliveries are made by applicant upon order direct from the warehouse. This company does not use applicant for any other service.

W. O. Farrington of the Farrington Engineering Company testified that his company receives from 15 to 20 tons of asbestos lumber per month at Los Angeles harbor, which applicant transports to its warehouse for storage until delivered elsewhere. This company, according to witness, has no other use for applicant's service.

W. F. Dumke, traffic manager of the Joannes Corporation, coffee, teas and spices, testified that his company receives shipments by water from New York, Brazil and the Orient, in considerable tonnage, and that applicant for the past year has been receiving cargoes at the harbor and transporting them direct to the company's own establishment. This company does not warehouse with applicant.

George C. Pierson, manager of the Los Angeles office of Schermerhorn Bros. Company, dealers in ropes and twines, testified that this company uses applicant's service on ship-

ments between the harbor and Los Angeles, but that it does not warehouse with applicant.

John J. Carr, proprietor of the American Import Company, which imports German toys and Chinese and Japanese novelties, testified that his company receives its shipments at Los Angeles harbor and that they are transported by applicant's service to applicant's warehouse at Los Angeles, from which point deliveries are made to customers. This business, witness testified, amounts to from 15 to 30 tons monthly.

Russell O. Greenhalge, import manager of F. P. Dow, Inc., custom house brokers, whose main office is in Seattle, with a branch at Los Angeles, clears imports through Los Angeles harbor approximating 1200 tons annually. This witness testified that the company uses several truck lines, according to direction of consignees, but that when no instructions are given, applicant's service is used, as the company considers it better than that of other carriers. Witness further testified that applicant's service is used at least every other day and that approximately 60 per cent of the consignees do not direct shipment by other carriers.

William Pear, paper dealer of Los Angeles, testified that he receives shipments of from 50 to 75 tons a month from Los Angeles harbor and has used applicant's service for several years, warehousing with applicant in the manner of other companies whose testimony has been given herein. Witness testified that applicant's service is essential to his business, as he receives prompt and "confidential" delivery, explaining that the nature of his business requires a certain degree of privacy in order to retain customers. He further testified that he had been paying rates upon

an hourly basis when the tonnage was small, but on large tonnage had been paying on the per ton basis.

J. B. Hymer, purchasing agent of Warren & Bailey Company, manufacturers of mining machinery, testified that all his shipments are received from the harbor by the line of protestant Los Angeles & San Pedro Transportation Company, and that the service is very good, but that he uses the service of applicant on the transportation of cork, solely because he receives a rate of \$2.40 per ton, which rate is lower than that offered by other truck carriers. This witness testified that bulk shipments are received by rail on a spur track at the company's plant, and that L C L movements are transported by truck. This company does not warehouse with applicant.

All of the witnesses produced by applicant testified as to the utility of truck service for prompt pick-up at ship-side and delivery in Los Angeles, and particularly as to the efficiency of applicant's service. It appears that some of these witnesses have paid the time rate as fixed by applicant, and others have paid upon the tonnage transported. One testified that he had paid a package rate. As many of the witnesses did not know the rates paid except on the hourly basis, which is practically the same as the rates fixed by applicant in its Exhibit "A" attached to the application, it is difficult to determine whether the rates to be charged by applicant are the same as those charged under private arrangement.

Protestants herein resisted the granting of the application upon two grounds: First, lack of necessity for any additional service between Los Angeles harbor and Los Angeles or other termini sought; and second, on the ground that applicant

had illegally established service previous to receiving a certificate from this Commission.

As to the public necessity of applicant's service, we believe that under the testimony herein it is a fair conclusion that applicant has conducted its business as a private carrier between Los Angeles harbor and its warehouse, under contractual relations with the shippers, and that the distribution from its warehouse to other points, such as Glendale, Alhambra and Pasadena, has been an "on call" distribution and private in its nature. The proportion of deliveries outside of Los Angeles seems to have been very small. In view of the utter failure of applicant to show any lack of facilities provided by the several rail lines operating between Los Angeles and the harbor, or by the 28 trucking companies now authorized to transport property between the harbor and Los Angeles, we do not believe the testimony of applicant or its witnesses invests the showing with an affirmative proof of public need. Applicant's business appears to be based entirely on a private relationship with shippers. As to the hauls to points other than the warehouse of applicant (two such hauls being shown in the testimony), it would seem that these also are private hauls. Applicant in this proceeding proposes no scheduled service and asks for little more than a certificate of public convenience and necessity to cover the private operations as heretofore conducted. For these reasons we believe applicant has failed to show the true attributes of public convenience and necessity for its proposed service, except, perhaps, a desire on the part of applicant to perform the service, which, unsupported by affirmative proof of public need, is insufficient.

As to the illegal establishment of the business, applicant admitted through the testimony of Mr. Casenave that its president (Mr. Casenave) had been connected for some years with the American Transfer & Storage Company of Oakland, operating during that period under a certificate from this Commission, and therefore was familiar with the necessity of securing a certificate for such operations. Protestants proved through Mr. Casenave that applicant had reduced its transportation rates to and from the harbor to meet a reduction on the part of the authorized carriers, and that applicant was persistently seeking new business at rates less than those established by the authorized carriers.

We therefore find as a fact, upon the record herein, that public convenience and necessity do not require the establishment of the service proposed by applicant, and accordingly an order will be entered denying the certificate applied for.

O R D E R

Service Drayage & Warehouse Company, a corporation, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the establishment and operation by applicant of an automobile freight service between Los Angeles and Los Angeles harbor and Long Beach harbor, and between Los Angeles and Alhambra, Pasadena, Glendale, Santa Monica and Long Beach, 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 do not
require the establishment and operation by applicant of an
automobile freight service between Los Angeles and Los Angeles
harbor and Long Beach harbor, and between Los Angeles and
Alhambra, Pasadena, Glendale, Santa Monica and Long Beach, and

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

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

Dated at San Francisco, California, this 18th
day of November 1926.

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COMMISSIONERS.