

Decision No. 17754

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application )  
of RAY A. ANDERSON for a certif- )  
icate of public convenience and )  
necessity to operate an automobile )  
truck service for the transporta- )  
tion of fresh fruits, tomatoes, )  
spinach, canned goods, sugar and )  
other commodities between various )  
points and canneries at Pomona, )  
Ontario and Cucamonga, California.)

APPLICATION NO. 11698.

H. W. Kidd, for Applicant.

L. C. Zimmerman, for Southern Pacific Railway,  
Protestant.

C. E. Jones, for Pacific Electric Railway Com-  
pany, Protestant.

M. Thompson, for American Railway Express, Pro-  
testant.

Phil Jacobson, for Keystone Express, Protestant.

BY THE COMMISSION:

O P I N I O N

In this proceeding Ray A. Anderson has made application, as amended, to the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck service for the transportation of fresh fruits and vegetables, canned goods, sugar and other commodities between various points and canneries at Pomona, Claremont, Ontario and Cucamonga.

Public hearings herein were conducted by Examiner Williams at Riverside.

Applicant herein seeks authority to conduct a rather widely distributed operation for the transportation of fresh fruits and vegetables between points of origin and certain canneries, particularly the canneries at Pomona, Claremont, Ontario and Cucamonga. Applicant has been in the drayage business for a number of years - actually, according to his testimony, since 1916. - and at the time of hearing was the owner of 16 pieces of equipment worth approximately \$65,000, on which there existed a debt of \$4200. Applicant operates under certificate from this Commission a regular transportation service between dairy ranches in and about Chino and Pomona, and Los Angeles, which is the only portion of his business for which he has heretofore believed a certificate was required.

In the present proceeding applicant placed in the record every phase of the operations he has been conducting for many years and asked the Commission to certificate those which fall within the purview of the Auto Stage and Truck Transportation Act.

At the original hearing the applicant sought a certificate for radial operations. Subsequent to this hearing the decision on the Ben Moore application (Decision No. 15818 on Application No. 11303) was promulgated by this Commission and so affected the status of applicant that permission to amend his application was sought and granted.

At the hearing on the amended application the showing made was virtually of a contractual relation between certain canneries and applicant, under which he has transported large quantities of fresh fruits and vegetables in season from orchards

to packing houses. These movements have been principally between Banning and Beaumont and Pomona, Hemet and San Jacinto and Pomona, and Porterville and McFarland and Pomona. The tonnage transported has been large at times, but each movement has been restricted to the particular fruit or vegetable harvested, resulting in a continuous movement over a short period with a number of trucks. To a lesser degree many other movements have been made by applicant, all destined to particular canneries in and about Pomona, and all based upon a private contractual relationship between applicant and consignees. We are satisfied from the showing in this respect that applicant's business is now and always has been that of a private carrier, that his business is largely the "on call" or so-called "radial" operation defined in the Ben Moore decision as not within the jurisdiction of this Commission, and that, in addition, it consists of movements for which applicant has not shown public need.

It further appears from the record, particularly in the testimony of Paul E. Parrish, manager of the Cutler-Lobingier Packing Company (formerly Golden State Canneries) of Ontario and Pomona, and B. C. Horning, foreman of packing houses of the Pomona Fruit Growers' Exchange, having packing houses at Pomona and Claremont, that applicant has been conducting a more or less regular movement of packed citrus and deciduous fruits from canneries at Pomona, Claremont, Ontario and Cucamonga, to Los Angeles and Los Angeles harbor, with a return movement of sugar and packing house supplies, and also of packing cans in crates, from Los Angeles and Vernon. It was the testimony of Mr. Parrish that his packing house shipped during the 1925 season from 2500 to 3000 tons to Los Angeles harbor, with only

a negligible portion transported by rail. The remainder was transported by truck, the greater proportion moving by applicant's vehicles. Similar movements were made by this cannery in previous years and it was the testimony of applicant that during the 1925 season he transported 760 tons of packed fruits from Pomona to Los Angeles and 2140 tons of canned goods to Los Angeles harbor. These shipments were rather evenly distributed over ten months of the calendar year. In fact, applicant has enjoyed this business practically in its entirety since 1919, and in addition he has transported similar commodities for many other packers at the same points of origin. Because of the continuity and regularity of these movements between fixed termini, and because of the past holding out of applicant to serve all canneries and his present offer to assume the duties of a common carrier of such commodities at the rates shown in the application, and further because the service maintained is an emergency rapid delivery not maintained by other carriers, we believe applicant should receive authority from this Commission to transport packed and unpacked citrus and deciduous fruits and canned fruits and vegetables from Pomona, Claremont, Ontario and Cucamonga to Los Angeles and Los Angeles harbor, with a return movement of cans in crates from Los Angeles and the city of Vernon, and sugar from Los Angeles and Los Angeles harbor to the same points, provided that these movements are restricted as to origin and destination to packing houses or canneries at Pomona, Claremont, Ontario and Cucamonga. There is no proof, except the testimony of applicant, that similar service between Hemet and Banning and Los Angeles and Los Angeles harbor is required by the public, and hence this portion of the application must be denied.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the operation by applicant Ray A. Anderson of an automobile truck service for the transportation of the commodities specified in the preceding paragraph, and between the points specified therein, and for no other service. As to similar movement between Los Angeles and Los Angeles harbor and Hemet and Banning, we find that no public need has been shown. We further find as a fact that all other movements conducted by applicant are of a private or contractual nature and not between fixed termini or over regular routes, and hence not within the jurisdiction of this Commission.

#### O R D E R

Ray A. Anderson having made application, as amended, to the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck service for the transportation of fresh fruits and vegetables, canned goods, sugar and other commodities between various points and canneries at Pomona, Claremont, Ontario and Cucamonga, 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 operation by applicant Ray A. Anderson of automobile truck service for the transportation of packed and unpacked citrus and deciduous fruits and canned goods from Pomona, Claremont, Ontario and Cucamonga to Los Angeles and Los Angeles harbor, and

for a return movement of sugar and packing house supplies, including cans, shock, metal strapping, wraps, paste and inks, from Los Angeles and Los Angeles harbor and Vernon, without intermediates; provided that all shipments shall originate at or be destined to packing houses in Pomona, Claremont, Ontario or Cucamonga, over and along the following routes:

From Pomona and Ontario via Valley Boulevard, Alhambra Road and Mission Road to Los Angeles, and between Los Angeles and Los Angeles harbor via Harbor Truck Boulevard; also from the same points to Los Angeles harbor via Valley Boulevard to Pico Road, thence to Seventh Street, Whittier, thence west to Downey-Clearwater Road and Compton Boulevard to Harbor Truck Boulevard. From Claremont via Tenth Street and San Antonio Boulevard, thence via Valley Boulevard over either of the routes above described to Los Angeles or Los Angeles harbor. From Cucamonga via Guasti Road and Colton-Bloomington Road to Ontario, thence via Valley Boulevard, using the same routes from the east to Los Angeles or Los Angeles harbor, thence by either Santa Fe Avenue or Harbor Truck Boulevard to Vernon, and returning eastwardly over either of said routes; 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 Ray A. Anderson shall file with this Commission, within a period not to exceed ten days from date hereof, his written acceptance of the certificate herein granted.
- II. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from date hereof, tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the 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 by applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that the application herein, in so far as it relates to transportation service between Hemet and Banning and Los Angeles and Los Angeles harbor, be and the same is hereby denied; and

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same is hereby dismissed for lack of jurisdiction.

For all purposes except as hereinbefore stated the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup>  
day of December 1926.

H. H. B. ...  
A. ...  
...  
...  
...  
COMMISSIONERS.