

Decision No. 17885.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 JAMES BELL and CHARLES GRIFFIN, co-partners,
 doing business under the fictitious name and
 style of GILROY EXPRESS, (1) for a certifi-
 cate of public convenience and necessity to
 operate an automobile transportation service
 as a common carrier of freight between
 Oakland, San Jose, Coyote, Madrone, Morgan
 Hill, San Martin, Gilroy, Sargent, San Juan,
 and Hollister, California, and all points
 intermediate between Coyote and Hollister,
 including the right to serve the territory
 for a distance of two miles on either side of
 the highway over and along said route, and
 (2) to link, join, unite and consolidate said
 operations with the existing operations of
 the Gilroy Express as a common carrier of
 freight between San Francisco and Hollister
 and certain intermediate points.

ORIGINAL

Application
No. 12656

Harry A. Encell and Jas. A. Miller, by Harry A. Encell,
 for Applicant,

L. N. Bradshaw for Southern Pacific Company, Protestant,

Edward Stern and Mr. Baker, for American Railway Express
 Company,

Gwyn H. Baker for Oakland-San Jose Transportation Com-
 pany, Highway Transport Company and Pioneer Gibson
 Express.

BY THE COMMISSION -

O P I N I O N

James Bell and Charles Griffin, co-partners, doing business
 as Gilroy Express, have applied to the Railroad Commission for an
 order declaring that public convenience and necessity require the
 operation by them of an automobile service as a common carrier
 of property

between Oakland, San Jose, Coyote, Madrone, Morgan Hill,
 San Martin, Gilroy, Sargent, San Juan and Hollister, and
 all points intermediate between Coyote and Hollister
 including lateral rights of two miles on either side of
 the highway between San Jose and Hollister, excepting
 that no service will be given between points intermediate
 to Oakland and San Jose, and for authority to consolidate
 the proposed route with their present operating rights,
 existing under Decisions Nos. 14388 and 14425, and
 authorizing service between Hollister and San Francisco.

A public hearing on this application was conducted by Examiner Austin at Gilroy on October 25, 1926, the matter was duly submitted and is now ready for decision.

At the outset applicants stipulated with C. H. Baker to eliminate Item 17 from the Class Rate Tariffs, submitted with the application herein, to strike San Jose from Item 245 of the tariff and that they would not serve San Jose from the east or west side of the Bay. Applicants further stated that they did not seek authority to transport freight to points north of Coyote. With this understanding G. H. Baker withdrew the protests of the three carriers he represented.

Charles Griffin of Gilroy, one of the applicants, testified that he has been operating between San Francisco and Hollister, and that he had had requests to transport property from Oakland to points south of Coyote; from stores at Gilroy and from canneries at Gilroy and Hollister. Gilroy merchants, he said, purchase supplies from Oakland wholesale houses. There are canneries at San Martin, Gilroy and Hollister and the shipments northbound from the canneries to Oakland will vary from 10 to 30 tons per week. He further stated that shipments of cheese from San Felipe amount to from 100 to 200 flats per week (one flat weighing 20 pounds). From Oakland to San Felipe witness said hog and dairy feed also moves, the quantity varying from 2 to 10 tons per week. Requests to haul lumber vary from one ton to a truck and trailer load.

Griffin said he had been operating under contract for about one year and that he now proposes to operate under the tariff shown in the application.

Although a weekly schedule has been proposed, applicants will increase the schedules, if necessary. Witness said applicants' present equipment consisted of 11 trucks of varied capacity, and 8 trailers, and that he was financially able to acquire any additional equipment. The rates proposed to be charged are attached to and made part of the application, as Exhibit A.

Consolidation of the operating right herein proposed with his existing rights, witness said, will result in reduction of office expenses, reduction of overhead expenses and greater efficiency in operation through the ability to use drivers interchangeably on both lines.

Witness, describing his operations, said the Gilroy Express is interested in local hauling embracing the handling of furniture and the general freight and transfer business, operating generally between all points, the hauling to Oakland being performed under its general transfer business. He said two trucks would be available for service ^{every night.} He said no specific increase in service above the weekly schedule offered in the application is proposed, feeling that the operation should be conducted for two or three months in order to determine the necessity for additional service. Other than as to the regularity of service, he said the proposed service and rates do not differ substantially from those now accorded under special contract.

Naming a number of persons for whom they had hauled under private verbal contract between Oakland and Gilroy witness said applicants had transported all freight offered to them but had not solicited any business.

A truck was operated to Oakland each Monday and they had previously hauled loads of furniture to Oakland. The shipments made ~~on~~ on Monday nights consisted of cheese tendered by the San Felipe Cheese Company. He said they had hauled once or twice to the Gilroy stores. No shipments from Oakland to Gilroy were refused.

Henry L. Wills of Gilroy, a retail lumber dealer, testified that he shipped lumber once a week from the E.K. Wood Lumber Company of Oakland; the shipments amounting to one truck and trailer load per month. Lumber had previously been hauled under private contract. He said he had no need of service from any point except Oakland. The truck service, according to this witness, is preferable to the railroad, being more expeditious. He said prompt service is needed to enable dealers to fill up stock and to meet emergencies,

and that so far as his business was concerned a weekly truck service is both a convenience and a necessity.

H. E. Robinson, also of Gilroy, and President of the Madewell Manufacturing Company of Oakland, dealers in sheet metal, galvanized iron articles, watering troughs and irrigation pipe, said his company ships to Coyote and Hollister, and that there exists a necessity for an expeditious delivery. He said he shipped small fittings by American Railway Express. He admitted he had not checked the time of rail movement since last Spring, and said he did not know freight moved in straight carload lots from Oakland to Gilroy as it does from San Francisco.

W. L. Harcourt of Gilroy, where he is connected with the Felice and Perelli Cannery, said the freight movement to Oakland from his cannery amounts to 750 tons, most of it occurring between July and December. There is no back haul from Oakland and no haul from any points between Hollister and Coyote to his plant. Fruit destined to Oakland, he said, has been accumulated in the cannery until a full carload has been obtained, which is then forwarded. Occasionally the need arises for handling small emergency shipments which must be sent by any available means affording prompt delivery to the steamers. Most of his shipments move in carloads, he said, and a daily service is not required, but weekly service by truck would save time in the transportation of small lots. He can accumulate a carload in two or three days and if obliged to accumulate shipments for a period of six days, he said he would prefer the rail service.

R. G. Massolini of San Martin testified as Manager of the San Martin Canning Co. which ships about 1000 tons a year. All his shipments move to Seaboard, previously to San Francisco but more recently to the Howard Terminal in Oakland. His plant is served by a Southern Pacific spur and all shipments move in carloads by rail. The rail service is sufficiently expeditious. While he incurs no cartage charge in Oakland, he said he pays an unloading charge of 40¢ per ton. A trucking service would be convenient, in his opinion, because it saves a loading and unloading charge.

a charge at Oakland is imposed by the Terminal Company, witness said. The rail rate is 18¢ gross, made up as follows:

Tariff rate - 13½¢ per 100#; San Martin loading charge 50¢ per ton, and unloading charge in Oakland - 40¢ per ton; Applicants' rate (See Item 170), is 15¢ per 100#.

M. F. Sousa of San Felipe, President of the San Felipe Cheese factory, testified that the plant is 8½ miles south of Gilroy. There are 13 ranchers in the vicinity, owning together 1500 acres of land, who comprise the stockholders of this company, all of them delivering milk at the factory for manufacturing cheese. Between November, 1925, and October 20, 1926, the factory shipped 189,600# (94.3 tons) of cheese to Oakland. Since the nearest railroad station is at Gilroy, shipments must be trucked a distance of 8½ miles before they can be loaded on the cars. The railroad also requires the cheese to be packed in boxes. Cheese need not be crated for truck shipments. Witness said that by a direct line shipments can be hauled direct to their Oakland distributing agent. From Oakland the factory ships salt, rennet and cheese cloth, the witness being unable to state the quantity. He said he believed there is a need for the proposed truck service to Oakland. This witness said further that a weekly truck service will be sufficient but that on shipments moving through the warehouse, rail service is preferred.

The testimony of three other witnesses, all of similar trend, was stipulated into the record, and W. E. Stewart, who conducts a warehouse at Gilroy, testified that in the last year he shipped three cars comprising 60 tons of cocoanut meal for distribution to the ranches surrounding Gilroy. He said he sends supplies from his warehouse to San Felipe but does not reach points north of Coyote nor south of Sargent. He declared it as his opinion that a direct truck service would be advantageous. He admitted that cocoanut meal is frequently hauled under contracts requiring delivery within specified time.

Jno. A. Angonett of Gilroy, testifying for Southern Pacific Company, protestant, said that for the last three or four weeks he had been employed as Manager of the Gilroy branch of Skaggs Cash Stores. He said he receives shipments from Oakland varying from three times weekly to daily and also received express shipments from Oakland, the service being satisfactory. Freight is delivered direct to the store by a local transfer company, and express is delivered direct to the store by the express company.

B. R. Colson, Agent for Southern Pacific Company at Gilroy for the last three years, during the previous 5 years having been employed as telegrapher and clerk, described the railway freight service from Oakland to Gilroy. He said the service was given daily except Sunday, the freight being available for delivery from 1:30 to 2:30 P.M. and arriving there between noon and 2 P.M. The local freight office closes at 4 P.M. Freight from San Francisco is unloaded at Gilroy at 7 A.M., about five or six hours earlier than that from Oakland. Oakland freight is handled through without any transfer at San Jose, this service having been in effect for the past five or six months. The witness said that investigation of complaints of delayed shipments showed that freight is not always promptly delivered to the railroad by the shipper at Oakland. He said he had never found that any wholesale shipments were delayed by the Southern Pacific. The Southern Pacific Company, it was stipulated, performs no pick-up and delivery service except less than carload shipments delivered to the carrier on spur tracks. It was also stipulated that during August 1926, a representative period, freight delivered in Oakland up to 4 P.M. was delivered on the succeeding day as follows:

Coyote	-	10:25 A.M.
Morgan Hill	-	11:46 A.M.
San Martin	-	1:15 P.M.
Gilroy	-	1:51 P.M.
Hollister	-	8:00 A.M. on the second day.

On behalf of the American Railway Express Company, Edward Stern made a statement describing its service, saying that it maintained a service for the collection and delivery of parcels at Oakland, Gilroy and Hollister. He offered in evidence a schedule of the daily service maintained by the company.

After giving due and careful consideration to all the evidence offered in this proceeding, we are of the opinion, and hereby find as a fact, that public convenience and necessity do not require the operation by James Bell and Charles Griffin, co-partners, operating under the name and style of Gilroy Express, of an automobile service for the transportation of freight between Oakland and points in the territory between Coyote and Hollister. Applicants, the testimony showed, have been making one trip a week to Oakland, (on Monday), hauling cheese under a verbal contract. Occasionally they secured a back haul and with some degree of frequency transported goods for a few other shippers than the cheese manufacturers. These shippers, naturally enough, willingly testified that the service given by applicants was a convenience and that they would like to see it continued. No dissatisfaction with the service given by the Southern Pacific Company and American Railway Express Company, who appeared as protestants against the granting of the application, was developed. In fact, some of the testimony from witnesses favoring the truck service was to the effect that the rail service was preferred under certain conditions; that the proposed trucking service would be a convenience in emergency cases. There was little, if any, evidence that the service as proposed by applicants was a necessity. The fact that but one trip a week is proposed by applicants, in itself, indicates that public convenience and necessity will be but little disturbed if applicants' application be denied.

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being fully advised and basing its order on the findings of fact

which appear in the opinion which precedes this order,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by James Bell and Charles Griffin, co-partners, doing business under the name and style of Gilroy Express, of an automobile truck line as a common carrier of freight between any of the points named in the application herein, and

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

Dated at San Francisco, California, this 12th day of January, 1927.

Emmerson
J. B. Bridgman
C. Seaman
Leon Whitell

COMMISSIONERS.