

Decision No. 18021

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
CLARK BROS. for an extension and en-
largement of their operative rights
to include freight transportation
between Oakland, Emeryville, San Le-
andro, Richmond, Martinez, on the
one hand, and Aptos, Betabel and all
intermediate points in the Pajaro
Valley, on the other.

APPLICATION NO. 13334.

Wyckoff & Gardner by H. C. Wyckoff, and
Devlin & Brookman by Douglas Brookman, for
Applicant.

W. S. Johnson and E. A. Teubner, for South-
ern Pacific Company, Protestant.

BY THE COMMISSION:

O P I N I O N

In the above numbered application Clark Bros., a co-
partnership composed of A. B. Clark and Kenneth C. Clark, seek
authority to extend and enlarge their present operative rights
to include freight transportation between Oakland, Emeryville,
San Leandro, Richmond and Martinez, on the one hand, and Aptos,
Betabel and all intermediate points in the Pajaro Valley, on
the other hand.

A public hearing herein was conducted by Examiner
Williams at Watsonville.

In Decision No. 15477 on Application No. 11168, dated
October 1, 1925, applicants were granted a certificate to trans-
port berries, green fruits and vegetables from points in the

Pajaro Valley to San Jose, Oakland, San Francisco and other points. Subsequently, by Decision No. 17453 on Application No. 12636, dated October 13, 1926, applicants' authority was enlarged to include the transportation of general freight between Watsonville and the Pajaro Valley, and San Francisco and San Jose. In the present application enlargement is sought by which applicants will be enabled to perform general freight service to Emeryville, Oakland and San Leandro, and also transport petroleum products in containers, but not in tanks, between refineries in and about Richmond and Martinez, and points in the Pajaro Valley, in lots of 10 tons or more, aside from the return of empty containers.

At the hearing the application was amended, correcting typographical errors in the rules proposed; changing Section "C" of special commodity rates to read "in 5-ton lots or more"; describing the pick-up zone in Oakland as follows:

"Beginning at the western end of Twenty-second Street on the San Francisco Bay, east along Twenty-second Street, Grand Avenue, Excelsior Boulevard and Hopkins Street to Fruitvale Avenue, thence south along Fruitvale Avenue to the city boundary at the water front on the inner harbor, thence along the water front to the point of commencement; also, one-quarter mile on each side of San Pablo Avenue between the above described district and Emeryville; also, one-quarter mile on each side of East 14th Street between the above described district and San Leandro,"

and providing for a pick-up charge of 5 cents per 100 pounds within the district described above, as well as in Emeryville, San Leandro and Watsonville. The application was further amended to include Oleum as a shipping point for petroleum products. All the service proposed by applicants

in the instant application must originate in or be destined to Watsonville or points in the Pajaro Valley between Aptos and Betabel, inclusive.

Applicants propose a schedule of rates in their Exhibit "A" which is based on the rates now charged by them for similar service on general class freight consigned to San Jose and San Francisco, and also special commodity rates on shipments of 5 tons or more. Rates on petroleum products and for the return of empty drums are also proposed. These rates were not disputed by protestant.

Time schedules are for a service leaving Oakland between 6 and 8 o'clock p. m. each business day and reaching Watsonville at 2 to 3 o'clock the following morning.

Applicants called as witnesses E. R. Cuyler, manager of sales for the Standard Oil Company in the Pajaro Valley; John Costello, resident agent at Watsonville for the General Petroleum Company; W. F. Cody, agent of the Union Oil Company at Watsonville; and Samuel H. Sweeney, local manager of the Shell Oil Company at Watsonville.

These witnesses testified that there is a frequent L C L movement of lubricating oils and gasolines in metal containers from the refineries at Richmond and Martinez and other points along the north shore of the bay, and that the service proposed by applicants would be of benefit and would receive their constant patronage. They further testified that movements of this character had been made with hired trucks, but that such service was not satisfactory. Each witness testified to monthly shipments ranging from 10 to 15

tons to as much as 150 tons, indicating an average volume throughout the year of approximately 100 tons monthly. Similar shipments by rail, they testified, took approximately four days, and rail service was not available, especially in emergencies where renewal of depleted stocks was necessary. The witnesses agreed that a public carrier, operating at fixed rates and with adequate schedules, could perform the service within 24 hours, to the satisfaction of the oil companies.

Other witnesses for applicants included Albin Anderson, manager of the Hayward Lumber Company, Watsonville; Harry D. Freiermuth, dealer in general hardware, plumbing and well casing, Watsonville; Lloyd Minogue, manager of the Piggly Wiggly stores at Watsonville; Grant Cornell, fruit grower, farmer and cider manufacturer; Jack Renfrow, general contractor, Watsonville; Joseph A. White, service manager of the Chevrolet agency; Leash Martinelli, manufacturer of cider and carbonated beverages at Watsonville; Louis F. Le Hane, assistant manager of the Central Supply Company, dealers in building materials and structural equipment at Watsonville; Stephen Scurich, dealer in packing house supplies; W. H. Enlow, manager of the Hammond Lumber Company, Watsonville; A. A. Hoyt, manufacturer of berry chests and chicken crates on the San Juan Road between Watsonville and Betabel; Bernard Radovich, dealer in packers' supplies, shoo, nails and paper, Watsonville; W. L. Jefsen, blacksmithing and iron fabricating, Watsonville; Harold V. Halverson, wholesale creamery; O. A. Eaton, farmer residing west of Watsonville; and John H. Strube, undertaker.

The above named witnesses testified generally to movements to and from Watsonville, of various commodities which they now receive by rail or by their own vehicles, or by trucks hired by the trip, and each expressed the belief that the establishment of service by a common carrier was a necessity to them and to residents of the Pajaro Valley.

Without going into the details of the testimony introduced, it appears that the freight which moves between these witnesses and eastside bay points, together with oil movements from the refineries, constitutes a considerable volume. The witnesses testified that they had made use of applicants' service to points now served and regarded it as highly satisfactory.

Dominic Dodge of Watsonville, manager of the Co-operative Grain and Milling Supply Company, a non-profit business operated for the Farm Bureau of Santa Cruz County, testified that truck service was needed for the delivery of less than carload quantities, and that, through the use of truck service, time would be saved in delivering shipments to the points of actual use.

The granting of the application was protested by the Southern Pacific Railway. In support of its opposition, the protestant introduced the testimony of Walter E. Cockroft, of the Juillard-Cockroft Company, wholesale grocers at Watsonville. This witness testified to receiving two or three shipments weekly by Southern Pacific Railway from Oakland, and to his satisfaction with the service given by this carrier. He said, however, that the service proposed by applicants may be

necessary to other shippers and that he did not wish to be understood as opposing the establishment of a service which might be of benefit to others, but that for his own purposes truck service was unnecessary.

P. W. Bernard, assistant to the general manager of the Southern Pacific, testified that a shipment delivered at the Southern Pacific depot in Oakland before 4:00 p. m. one day would be delivered at Watsonville at 8:15 a. m. on the second day (one day being consumed by the transfer of freight at San Jose). This witness further testified that the Southern Pacific has established in Oakland, by contract with the Drayage Service Corporation, a van pick-up of freight, which freight is assembled at the Oakland platform for shipment. This service replaces the spotted car service heretofore maintained, and is intended partly to accelerate movements of freight between Oakland and points south and west of San Jose. The service extends to the Emeryville, Melrose, Textile, Elmhurst and Berkeley districts. As to express shipments, witness testified that they are sent across the bay from Oakland to San Francisco and reach Watsonville the following morning, with the benefit of free delivery in the city of Watsonville but not elsewhere.

E. A. Teubner, travelling freight agent of protestant Southern Pacific Railway, located at Watsonville, testified that a special car would be provided for a minimum of 2½ tons moving from Watsonville to Oakland, but that not very much northbound freight had been offered.

Protestant also produced as a witness in support of its protest, Frank M. Chandler, traffic manager of the Certain-

teed Products at Berkeley, who testified in substance that this concern makes large use of Southern Pacific service, with very satisfactory results. Witness testified that Southern Pacific service had been used on L C L shipments from Oakland to Watsonville, but had not been found satisfactory because four or five days were required for the shipments to reach Watsonville. He stated that shipments intended for Watsonville had been shipped on barge across San Francisco Bay to San Francisco and then transported to Watsonville by the service maintained by Clark Bros., applicants herein, with satisfaction.

We have given careful consideration to the record in this proceeding and feel that the testimony produced in support of the application amply affirms the public necessity for the service proposed. The witnesses presented by applicants were representative of many lines of business dependent upon prompt shipping facilities, and the protestant herein has not shown ability to transport commodities with the dispatch provided by applicants. In addition, it is clear from the record that the bulk of the movements which would go to applicants' service have not heretofore moved by rail, and that the differential in rates is not likely to affect, except slightly, the rail service as now maintained. In this proceeding we have undisputed testimony that the rail service requires approximately 60 hours to transport shipments from Oakland to Watsonville, a distance of 96 miles, while the applicants herein propose to make the same deliveries within a period of not to exceed 24 hours, due to their ability to furnish uninterrupted service, without transfer, to any point.

We therefore find as a fact, upon the record herein that public convenience and necessity require the extension and enlargement of applicants' present service as proposed in their amended application, and an order granting a certificate therefor accordingly will be entered.

O R D E R

Clark Bros., a co-partnership composed of A. B. Clark and Kenneth C. Clark, having made application, as amended, to the Railroad Commission for an order declaring that public convenience and necessity require the extension and enlargement of their present operative rights to include freight transportation between Oakland, Emeryville, San Leandro, Richmond, Martinez and Oleum, on the one hand, and Aptos, Betabel and all intermediate points in the Pajaro Valley, on the other hand, 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 require the establishment and operation by Clark Bros., a co-partnership composed of A. B. Clark and Kenneth C. Clark, of a service for the transportation of general freight between Oakland, Emeryville and San Leandro, on the one hand, and Watsonville and Aptos and Betabel, and all intermediate points in the Pajaro Valley, on the other hand, and for the transportation of petroleum products in metal containers or drums, but not in tanks, between refineries located at and

in the vicinity of Richmond, Martinez and Oleum, and Watsonville and Aptos and Betabel, and all intermediate points in the Pajaro Valley, as an extension and enlargement of applicants' present operative rights, over and along the following route:

Over main highways via Chittenden Pass and San Jose and over State highway between San Jose, San Leandro, Oakland and Emeryville; also by main highways to Richmond, Martinez and Oleum; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service be and the same hereby is granted to Clark Bros., a co-partnership composed of A. B. Clark and Kenneth C. Clark, subject to the following conditions:

- I. Applicants shall file with this Commission, within ten (10) days from date hereof, their written acceptance of the certificate herein granted as an extension and enlargement of their present operative rights, and not as a new or separate right.
- II. Applicants 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 the service hereby authorized within a period of not to exceed sixty (60) days from 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 applicants under the authority hereby granted unless such vehicle is owned by applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 23rd
day of February 1927.

J

Emmert
W. B. Brundage
C. C. Chaney
Leon White
Thos. S. Rauter
COMMISSIONERS.