

ORIGINAL

Decision No. 18218

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
Richards Trucking and Warehouse Company
for certificate of public convenience
and necessity to operate auto truck
service between Los Angeles and Rivera,
Santa Fe Springs, El Modena, Olive,
Olinda, Placentia, Richfield, Yorba
Linda and Villa Park.

APPLICATION NO. 11568.

Lawler & Degnan, by Max Felix, for Applicant.

Warren E. Libby and Richard T. Eddy, for
Triangle-Orange County Express, Protestant.

BY THE COMMISSION:

O P I N I O N

Richards Trucking & Warehouse Company, a corporation, has made application to the Railroad Commission for a certificate of public convenience and necessity to establish service for the transportation of freight between Los Angeles and Rivera, Santa Fe Springs, El Modena, Olive, Olinda, Placentia, Richfield, Yorba Linda and Villa Park, and intermediate points.

Public hearings were conducted by Examiner Williams at Los Angeles, the matter was duly submitted on January 13, 1927, and now is ready for decision.

Applicant proposes classified schedules of rates consistent with the base rate charged on other portions of applicant's established service, and also provides routes and time schedules.

applicant corporation and its predecessor, Thomas Richards, allege that they have conducted operations between Los Angeles and each of the points named, in good faith and continuously, prior to and since May 1, 1917. The alleged prescriptive rights of applicant have been determined by decision of this Commission in Case No. 1946 and will not be discussed herein except incidentally to a determination of the instant application.

In this proceeding the applicant presents itself for a certificate authorizing service which has been shown to have been given for many years under rates on file with this Commission. The points involved are those declared invalid by the decision above referred to in Case No. 1946 - Cowan vs. Richards Trucking & Warehouse Company - and the applicant has rested upon the question of public necessity for the continuance of this service.

In support of the application, applicant produced Edward W. Fisher, traffic manager of the Santa Fe Warehouse, Los Angeles, a public warehouse which is the depository, for distribution, of many commodities. According to Mr. Fisher, shipments are made from the commodities stored in this warehouse to Santa Fe Springs, Yorba Linda, Olive, Placentia, Olinda and Rivera. Witness could not recall any shipments to Villa Park and was doubtful as to shipments to Richfield. The commodities distributed are food products, oil, soap, crisco, evaporated milk, chocolate, sea food in cans, etc. Mr. Fisher testified that the volume of shipments is quite large and that the service heretofore performed by applicant has been good and without cause for complaint. Witness further testified that while

protestant Triangle - Orange County Express makes pick-ups at the warehouse, the business controlled by the warehouse is not delivered to this protestant because the service of applicant is preferred. The witness stated that, to his knowledge, this had been the situation for three years.

John W. Latham, general manager of Johnson, Carvell & Murphy, merchandise brokers and manufacturers' agents, having a warehouse in Los Angeles (Seaboard Warehouse), testified that applicant has distributed from this warehouse large tonnage in baking powder, malted milk, fruit juices, gelatine, chocolate, cocoa, cereals, and paper containers of all kinds, to all the points named in the application, with but small shipments, however, to the smaller points. Witness testified that he had been manager of the business for fifteen years, was familiar with the shipping needs of the firm's customers, and regarded applicant's service as a necessity and convenience, both now and in the future. Witness further testified that he uses the services of many other truck lines, including that of protestant Triangle - Orange County Express, but prefers the Richards service to all points where it is available. The witness expressed no complaint as to the service given by protestant Triangle - Orange County Express.

Louis McFarren, traffic manager of the Pacific Coast Warehouse in Los Angeles, testified as to shipments of canned goods, groceries, evaporated milk, rice, beans, matches, stoves and paints, over the service maintained by applicant, with entire satisfaction.

Oscar Gross, of Gross & Gross Truck Company, testified that he performs trucking service within the city of Los Angeles

for the Fruit Growers' Supply Company, dealers in citrus packing house supplies, maintaining a storage warehouse in Los Angeles. Witness testified that 85 per cent of the distribution from this warehouse is made by applicant, the remainder being performed by protestant Triangle - Orange County Express and the Independent Truck Company. He further testified that he transports, to applicant's terminal at Los Angeles, all deliveries for the points involved in this application.

C. B. Pirie, traffic manager of Harper & Reynolds Corporation, wholesale dealers in hardware and plumbers' and builders' supplies, Los Angeles, testified as to shipments made by his firm regularly for many years to Rivera, Olive, Placentia, Richfield, Yorba Linda and Villa Park. This firm delivers shipments to the terminals of carriers, including protestant Triangle - Orange County Express, for shipment at the wish of its customers. If the consignee does not designate the transportation line over which service is desired, witness testified that applicant's service is given preference because of long experience with it and its satisfactory deliveries. The witness further testified that consignees prefer applicant's service when designating the method of shipment.

F. J. Kunz, superintendent of transportation for the Hughes Ice Cream Company, testified as to shipments of ice cream to Santa Fe Springs, for three years or more, by applicant's service. He testified that the service is satisfactory and that he regards it as necessary. This witness further testified that his company had never used the service of protestant herein because applicant's service had been found so satisfactory.

R. H. Bennett, manager of the Southern California Consolidated Dairy Products, dealing largely in evaporated milk, testified as to shipments by applicant's service to Santa Fe Springs, El Modena, Olive, Placentia, Yorba Linda and Villa Park, over a period of about five years. Witness testified that the service had been entirely satisfactory and that he considered it necessary in the distribution of the commodities shipped.

Similar testimony was given by C. P. Johnson, traffic manager of the Carnation Milk Company, which warehouses its supplies at the Union Terminal Warehouse Company in Los Angeles. Shipments by this concern have been made to Rivera, Santa Fe Springs, El Modena, Olive, Olinda, Placentia, Richfield and Yorba Linda. The service of applicant has been used to all these points within the last two and a half years and has been found satisfactory; in fact, the witness testified that the service of both applicant and protestant had been used and applicant's service selected as superior.

G. W. Camblin, salesman for the W. S. Barnickel Company, dealers in Tretolite, a chemical used in treating crude oil, testified as to satisfactory service by applicant to Santa Fe Springs. This company warehouses its stored supply at the warehouse of applicant. Witness testified that monthly shipments amount to from 12 to 15 drums of approximately 450 pounds each.

Henry Deussen, traffic manager of applicant corporation, testified as to shipments made by the Richards service to the points named, during a ten-day period in May,

1926. These shipments were made by twenty-six commercial houses in Los Angeles and included some of the larger wholesale and manufacturing concerns, representing a variety of commodities and a very large volume of traffic. It was Mr. Deussen's testimony that the shipments had been conducted without complaint from any of the consignors or consignees.

For the protestant, S. B. Cowan, proprietor of the Triangle - Orange County Express, testified that he makes two deliveries daily at Rivera and Placentia, three at Santa Fe Springs and Downey, and one each at El Modena, Olive, Olinda, Richfield, Yorba Linda and Villa Park. Of these points, all are served by direct schedule except Richfield and Yorba Linda, which are served by local pick-up and delivery. Mr. Cowan testified that he has abundant equipment to handle three times as much tonnage as he now handles, and that he had received no complaints as to the service he had been furnishing to any of the points involved.

Hiram S. McClintock, shipping clerk for the Joannes Corporation, testified as to shipments made by his firm via protestant's service to all of the points involved in the application, except Santa Fe Springs and Villa Park, during the past four years. Witness testified that this service is good and that his firm requires no other service.

T. C. Anderson, shipping clerk for the B. F. Goodrich Tire & Rubber Company, testified to shipments of tires and rubber goods to all the points involved herein, by protestant's service, and to complete satisfaction with the service. He testified that no other service was necessary, although

shipments had been made by the applicant herein.

It was stipulated that witnesses representing the Western Radio Corporation, Pacific Wholesale Radio Corporation, Maxfield Company, A-1 Manufacturing Company, Lichtenberger-Ferguson Company, Los Angeles Leather Company, Morgan & Baker, Associated Oil Company and Klein, Norton & Company would give testimony similar to that given by the two witnesses examined under oath, if called to the stand.

Thomas Richards, president of the applicant corporation, testified that he had been performing service to all of the points involved, since prior to May 1, 1917, although his recollection was not clear as to some of the service rendered prior to that date. The record seems clear, however, that service has been given to all of the points named since 1918, under tariffs filed with this Commission. The fact that these tariffs were not properly constructed or accurate as to the points served, was explained by Mr. Richards to have been due to his negligence in not carefully supervising the filings, this having been left to the attention of agents.

The question of prescriptive right is not involved in this application, and hence the application must be determined upon the present public necessity for the service sought to be performed. It appears that the service heretofore conducted by both applicant and protestant has been, in the main, satisfactory to those patronizing each, and that the service of applicant was for many years conducted in good faith and in ignorance of the technical defects in his tariff

filings. It appears further from the testimony that a large and very substantial portion of the shipping public of Los Angeles has used, and desires to continue to use, the service offered by applicant to the points named in the application, as a part of applicant's general system, which is not in dispute in this proceeding. The record seems clear that the service has been of benefit to the public using it and that it will continue to be of benefit; and we believe the elements of convenience and necessity are affirmatively shown to exist and that the record herein justifies the granting of the certificate sought.

In its decision on Case No. 1946, this Commission found that applicant herein possesses a prescriptive right to serve Rivera and Placentia, and hence they are excluded from consideration herein.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the establishment and operation of transportation service as proposed by applicant, and an order granting a certificate therefor accordingly will be entered.

O R D E R

Richards Trucking & Warehouse Company, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto truck service between Los Angeles and Rivera, Santa Fe Springs, El Modena, Olive, Olinda, Placentia, Richfield, Yorba Linda and Villa Park, and intermediate points, public hearings hav-

ing 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 applicant Richards Trucking & Warehouse Company, a corporation, of automotive freight service between Los Angeles and Olinda, Richfield, Yorba Linda, Villa Park, Olive, El Modena and Santa Fe Springs, over and along the following route:

Via highways now traversed by applicant on its present operations, and diversions therefrom to reach points named herein; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for said service be and the same hereby is granted to applicant Richards Trucking & Warehouse Company, a corporation, subject to the following conditions:

- I. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
- 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 tariffs 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 herein granted unless such vehicle is owned by applicant or is leased by it 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 11th
day of April 1927.

Frank D. Coats
H. B. Brundage
C. J. Scam
Leon Whitell
Thos. J. Quinn
COMMISSIONERS.