

Decision No. 18232

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
Al G. Witt for certificate of public)
convenience and necessity to operate) Application No. 11218.
auto freight service between San)
Francisco and San Jose, California.)

A. L. Fourtner, for Applicant.
Spencer Prime, for San Francisco & San Jose
Fruit & Produce Transfer Co., Protestant.
G. H. Baker, for Highway Transport Company.

BY THE COMMISSION:

O P I N I O N

Al G. Witt has petitioned the Railroad Commission in accordance with his amended application for an order declaring that public convenience and necessity require the operation by him of an automobile truck line as a common carrier of fruit, vegetables, farm products, farm equipment and implements and other farm necessities, and also oil, sulphur, eggs, butter, cheese, canned goods and similar commodities which are sold by commission houses, warehouses, cold storage plants and wholesale grocers and transported along and over the route between San Francisco and Campbell, serving San Jose, Santa Clara, Milpitas, Alviso, Saratoga, Agnew, Cupertino, Mountain View, Los Altos, Mayfield, Palo Alto, Redwood City, and intermediate points, and five miles on each side of the highway traversed.

A public hearing on this application was conducted by Examiner Satterwhite at San Francisco, the matter was submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with Exhibit "A" attached to said amended application and to operate on a time schedule and over the route as shown in Exhibit "B", and to use the equipment described in Exhibit "C" attached to said

amended application.

The San Francisco & San Jose Fruit & Produce Transfer Company appeared at the hearing as a protestant, but offered no evidence in opposition to the granting of said application.

The Highway Transport Company appeared at the hearing but offered no evidence in opposition to the granting of said application.

The evidence of applicant shows that prior to May 1, 1917 and continuously ever since said date he has operated an automobile freight service between the points proposed to be served and has transported the particular commodities which he now desires to transport under the regulation and authority of this Commission.

This applicant now operates an authorized service under and by virtue of this Commission's Decision No. 10954 on Application No. 7940, dated September 8, 1922, for the transportation only of fruits and vegetables and farm products between the points and over the route described in the instant application, with the restriction, however, that no commodities whatsoever shall be transported from San Francisco southbound, with the exception of returning empties.

Applicant accepted the foregoing restricted certificate but continued to transport the products and implements of husbandry and other farm necessities from farm to farm and between farms and commission houses and warehouses, as he had been doing ever since and prior to May 1, 1917, for the reason that the provisions of the Auto Stage and Transportation Act (Statutes of 1917, Chapter 213, as amended in 1923) exempted from the regulation of this Commission the transportation of all such commodities.

When the Supreme Court of California, in the case entitled Franchise Motor Freight Association vs. Seavoy, et al., declared this exemption unconstitutional the Commission notified said applicant that his operations would have to be conducted under the jurisdiction of the Commission. Applicant immediately conformed to the directions contained in said notice and filed the instant application to have his truck operations carried on under a certificate of public convenience and necessity.

During the many years of the automobile freight service which applicant has carried on between the points proposed to be served he has delivered and carried farm products and farm necessities both northbound and southbound for certain well established commission houses in San Francisco, San Jose and Palo Alto, and also for innumerable farmers and orchardists in the towns and places throughout the territory now proposed to be served. The record contains several affidavits of various operators of commission houses who have patronized the service of applicant for many years and desire its continuance for the reason that applicant has at all times throughout the entire period of his operations rendered a very satisfactory service.

After careful consideration of all the evidence in this proceeding we are of the opinion and hereby find as a fact that public convenience and necessity require the issuance of a certificate authorizing the continuance of the operation of applicant.

ORDER

A public hearing having been held in the above application, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require

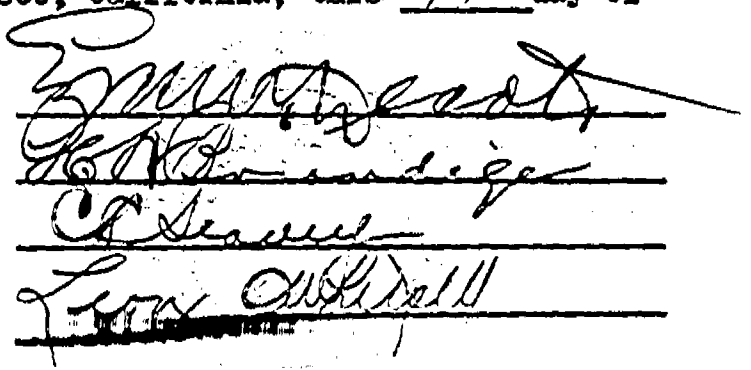
the operation by Al G. Witt of an automobile truck line as a common carrier of fruit, vegetables, farm products, farm equipment and implements and other farm necessities, and also oil, sulphur, eggs, butter, cheese, canned goods and similar commodities, which are sold and transported along and over the route between San Francisco and Campbell, serving San Jose, Santa Clara, Milpitas, Alviso, Saratoga, Agnew, Cupertino, Mountain View, Los Altos, Mayfield, Palo Alto, Redwood City, and intermediate points, and for a distance of five miles on each side of the highway traversed, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the foregoing service be and the same is hereby granted upon the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the 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.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him 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 the date hereof.

Dated at San Francisco, California, this 14th day of April, 1927.



Commissioners.