

Decision No. 18776

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of CALIFORNIA HIGHWAY EXPRESS, a corporation, for a certificate of public convenience and necessity removing certain exceptions and limitations as to its present motor freight service within the territory Fresno, Paso Robles south to Los Angeles for the transportation of Household Goods, Pianos, Trunks, Baggage and other Personal Effects, also Office and Store Furniture, Fixtures and Equipment.

Application
No. 12667.

also

for a certificate of public convenience and necessity to extend south from Los Angeles to the State's boundary, its present motor freight service in operation Los Angeles and north.

Warren E. Libby and H. N. Blair, for Applicant.

H. W. Kidd, for Motor Transit Company, Protestant.

D. W. Layne, for Pacific Electric Railway Company and Visalia Electric Railway, Protestants.

Henry J. Bischoff, for Coast Truck Line, Motor Service Express, Oppenheimer Truck Line, Warner's Hot Springs Freight Line, Julian Truck Line, Vischer's Truck Line, Borderland Express, Ray Transfer Company and Escondido Truck Line, Protestants.

BY THE COMMISSION:

O P I N I O N

In this proceeding applicant, California Highway Express, a corporation, seeks the elimination of certain restrictions imposed by previous decisions of this Commission under which

certificates were granted to applicant for the transportation of household goods, etc., and to enlarge its operations over 50 additional routes without restriction. Applicant also seeks lateral rights 25 miles on each side of the highways to be traversed, and wishes specific lateral routing to many points, including extensions of service to points south and east of Los Angeles. Applicant in addition asks authority for the consolidation and unification of all its operating rights.

Public hearings herein were conducted by Examiner Austin at Los Angeles, at which time the matter was duly submitted and now is ready for decision.

Applicant is now in possession of three certificates for the transportation of household goods, etc., between Los Angeles and San Francisco. By Decision No. 10063 on Application No. 7376, dated February 8, 1922, and supplemental order (Decision No. 10904) under date of August 24, 1922, applicant was granted the right to transport household goods, etc., between Los Angeles and San Francisco via the Valley Route, except between San Francisco and Manteca, with the further restriction that no transportation between intermediates should be performed; and further, that any service conducted between Los Angeles and Fresno should consist only of used household goods shipped from owner to owner, and not intended for resale.

By Decision No. 11291 on Application No. 7565, dated November 29, 1922, applicant was permitted to establish service between San Francisco and Los Angeles, exclusive of the terminals named along the Coast Route, and restricted from business between San Francisco and San Jose, inclusive, between San Miguel and Orcutt inclusive, and between Santa Barbara and Los Angeles inclusive.

By Decision No. 15085 on Application No. 10208, dated June 22, 1925, applicant was granted a certificate authorizing through service via the Coast Route between Los Angeles and San Francisco, and 25 miles laterally from the highway, and also between Bakersfield and San Luis Obispo, between Bakersfield and Paso Robles, and between Visalia and Paso Robles, and denying applicant's request for removal of other restrictions imposed by Decision No. 11291, and also denying certificate for the more than 50 routes included in the instant application.

By its present proffer, applicant seeks a certificate authorizing unrestricted service over both routes, and in addition, routes reaching San Diego, the Imperial Valley and intermediates, and many other points, all on the same unrestricted basis. Applicant has presented a schedule of rates and distances by points and routes, which appears to be consistent with the rate structure fixed for applicant by this Commission in previous decisions. The rates are generally higher than those of protestant carriers. Applicant proposes scheduled service between Los Angeles and San Francisco by both routes, but only a demand service as to other points.

The granting of the application was opposed by a number of general freight carriers affected by the routing and service proposed by applicant, but was not opposed by any other certificated carrier of the special commodities generally characterized as "household goods".

There was no testimony except that of Chester A. Nelson, president of applicant corporation, in support of the removal of restrictions between San Francisco and Manteca or San Francisco and San Jose or San Miguel and Orcutt, except remote mention

of destinations within the prohibited territory in exhibits filed.

The restriction imposed on applicant's operation between Santa Barbara and Los Angeles was designed to protect the operations of the Los Angeles & Santa Barbara Express and the Los Angeles & Oxnard Express, and its removal was denied in Decision No. 15085 because of lack of showing of public necessity for this service of applicant. Support for the modification of this particular restriction is found in the testimony of A. J. Cremeen, F. M. Brock, R. R. Sutton, Rodney S. Sprigg and Benjamin F. Ferris, all warehousemen of household goods and all conducting non-utility service for the transportation of household goods to and from their own warehouses and various other points. Their testimony shows demand for transportation facilities to points north and east of Los Angeles, points now served by the carriers protected by the restrictions. It is significant here to note that neither of the carriers protested the granting of the present application, and it was the testimony of Mr. Nelson that the president of the Los Angeles & Santa Barbara Motor Express continually refers demands upon his own line for the transportation of household goods to applicant. It is apparent from the record that neither of these carriers needs any protection from applicant so long as applicant's business is confined to the commodities specified in the application. The same situation is practically true of the operation between Los Angeles and Bakersfield. Neither of the carriers now benefitting by the restrictions imposed upon applicant's service protested their removal or even appeared at the hearing.

Applicant filed at the hearing its Exhibit No. 2, showing all the movements of household goods, etc., conducted by

the Red Line Express between January 1, 1926, and August 24, 1926, in support of the necessity for removal of restrictions between Los Angeles and Santa Barbara and Los Angeles and Fresno. This exhibit shows that during that time there were 339 movements, and that approximately one-fifth of them were to points within prohibited areas.

The Red Line Express is operated by Chester A. Nelson and R. W. Lacey, co-partners, and has conducted private transportation of the commodities named in the application for a number of warehousemen who are stockholders in the California Highway Express and who became stockholders to aid in establishing long distance service other than that rendered by their own equipment, which is used and will continue in use for short local hauls. It was admitted by the five witnesses presented by applicant that public service was needed by them only when they had hauls which they did not choose to make themselves. All of the movements made for them by the Red Line Express from January 1 to August 24, 1926, are shown in applicant's Exhibit No. 2. This exhibit shows the largest number of movements (72) were between Los Angeles and Santa Barbara and intermediates. The bulk of all movements was for distances in excess of 25 miles. It shows almost negligible movement between points in San Diego, Riverside, San Bernardino and Orange counties, the greatest number (12) being to San Diego. The exhibit (No. 1) filed by the Pasadena Transfer & Storage Company as to its movements, is very similar. The bulk of the movements was to nearby points.

It appears to us that the record justifies only the removal of the restrictions now imposed on applicant between Los Angeles and Santa Barbara, and between Los Angeles and Bakersfield,

because of the continuity of demand shown by exhibits and witnesses. As to other restrictions, the record does not present sufficient evidence to remove them.

Previously applicant has included in his operation delivery five miles on either side of the highway traversed, and this will be granted in the present order.

O R D E R

California Highway Express, a corporation, having made application to the Railroad Commission to remove certain restrictions upon its operations between Los Angeles and San Francisco, and for a certificate to operate automobile service for the transportation of household goods, etc. between Los Angeles and various termini, and for unification of its entire service, 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 operation by applicant California Highway Express, a corporation, of an automobile service for the transportation of household goods, etc., (as defined in Decisions Nos. 10063, 11291 and 15085 of this Commission) between Los Angeles and Santa Barbara, inclusive, and intermediates, and between Los Angeles and Bakersfield, inclusive, and intermediates, over the same route as now traversed by applicant under authority of this Commission, and five miles on each side thereof; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to said applicant California Highway Express, a corporation, as an enlargement of applicant's present service, and as a unified portion thereof, subject to the following conditions:

I. Applicant California Highway Express, a corporation, shall file with the Railroad Commission, within a period of not to exceed ten (10) days from date hereof, its 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 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 herein under the authority hereby 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.

IT IS HEREBY FURTHER ORDERED that the removal of other restrictions heretofore imposed upon applicant's service be and the same hereby is denied.

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

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

Dated at San Francisco, California, this 10th day of September 1927.

Emmerts
C. Seamy
Leon C. Whipple
Thos. J. Powell
M. A. Carr
Commissioners.