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Decision No. 20279.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
WALKUP DRAYAGE & WAREHOUSE COMPANY
for a certificate of public conven-
ience and necessity to operate a
freight service pursuant to contract
by automobile truck in any direction
between San Francisco, Bay Shore, South
San Francisco, Colma and San Bruno.

Application No. 14791.

Bronson, Bronson & Slaven, by
Ed. D. Bronson, Jr., for applicant.

Pioneer Express Company, by C.W.
McLenegan, protestant.

Highway Transport Company, by
C. E. Wellman, protestant.

Holmes Express Company, by Henry E.
Holmes, protestant.

BY THE COMMISSION:

O P I N I O N

In this application the Walkup Drayage Warehouse Company asks the Commission to grant it a certificate of public convenience and necessity to render freight transportation service between San Francisco and San Bruno and various other points in and near San Francisco.

A public hearing thereon was held before Examiner Rowell at San Francisco, August 3, 1928.

The applicant has entered into a contract with the Southern Pacific Motor Transport Company, a subsidiary of the Southern Pacific (Railroad) Company to transport goods between two freight stations of the Southern Pacific Company and one of the Northwestern Pacific Railroad Company in San Francisco to

four other freight stations of the Southern Pacific Company at Bay Shore, South San Francisco, San Bruno and Colma, the latter stations being outside the City and County of San Francisco. Only such goods will be carried as are in possession of the Southern Pacific Company or the Southern Pacific Motor Transport Company at those points and consigned for shipment on the lines of the Southern Pacific Company. Goods will be carried by the applicant from one of these points on the line of the Southern Pacific Company to another in specially constructed, sealed semi-trailers, the loading and unloading and the sealing of the trailers to be performed by the Southern Pacific Company or its subsidiary, the Southern Pacific Motor Transport Company, the applicant merely signing a manifest for the contents of the trailer load and agreeing under bond to redeliver the load with seal unbroken to the railway station designated.

Several protestants appeared, offering no objection to the applicant's rendering such a service, but questioning the authority of the Commission to certificate a service which they claim is not that of a common carrier. We believe, however, that the operations proposed by applicant are such as require certification. In substance, the service to be performed by the applicant is merely a part of the general undertaking of the Southern Pacific Company to transport goods for the public. It is apparent that if the Southern Pacific Company can not itself transport goods for the public between fixed points in this state by motor truck without first securing a certificate from this Commission, it can not indirectly through an agent or sub-agent engage in such transportation. The fact that the applicant or its employees will not personally deal with the

patrons of the Southern Pacific Company, either consignors or consignees, or be in possession of the shipping papers, or hold possession of the goods except as agent of the primary carrier, does not, it appears to us, exclude it from that class of carriers designated in the Auto Stage and Truck Transportation Act as "common" carriers. Its service does not differ materially from that of terminal or belt line railroads, which uniformly have been held to be common carriers.

Applicant's proposed operations will afford patrons of the Southern Pacific Company at the points to be served more rapid transportation than they now enjoy and will meet a real public need. The application will therefore be granted.

The equipment which will be used, the schedules of operation, and the rates to be charged as set forth in the exhibits filed with the application should be filed in full with the Commission as required of all public carriers.

Walkup Drayage & Warehouse Company is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby finds public convenience and necessity require the operation by Walkup Drayage and Warehouse Company of an automobile truck service between San Francisco and San Bruno over the routes hereafter set forth for the transportation of freight, such service to be limited to the transportation of such freight as may have been previously consigned for transportation over the lines of the Southern Pacific Company and which may be delivered to the applicant by the Southern

Pacific Company or the Southern Pacific Motor Transport Company at the railroad freight stations designated below and to be redelivered by the applicant at another of said freight stations; at the freight stations of the Southern Pacific Company located at the intersection of Fourth and Berry Streets, and at the intersection of 16th and Harrison Streets in the City and County of San Francisco, and at Bay Shore, South San Francisco, Colma and San Bruno in the County of San Mateo, and at the railway freight station of the Northwestern Pacific Railroad Company located at Front and Vallejo Streets in the City and County of San Francisco; the applicant to traverse the following route: From Fourth and Berry Streets in the City and County of San Francisco, over Berry Street to Third Street, over Third Street to San Bruno Avenue, and over State Highway known as Bay Shore Cutoff to Bay Shore; thence to South San Francisco by State Highway; thence to San Bruno by State Highway (Bay Shore Highway); thence to Colma by State Highway (El Camino Real); thence to San Francisco either by way of South San Francisco or State Highway, Mission Street, Silver Street, San Bruno Avenue, Potrero Avenue and Townsend Street.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be, and the same hereby is granted to Walkup Drayage & Warehouse Company subject to the following conditions:

1. Applicant shall file its 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 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 the date hereof.

~~September~~ Dated at San Francisco, California, this 28th day of ~~August~~, 1928.

Leon A. White
Chairman

Thomas H. Powell

Commissioners.