

ORIGINAL

Decision No. 20594

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 OSCAR SCHNEIDER, WALTER SCHNEIDER,
 and FRANK SCHNEIDER, doing business
 under the firm name and style of
 SCHNEIDER BROS., for a certificate
 of public convenience and necessity
 to operate an auto truck line, for the
 transportation of property, for compensation,
 between Sacramento and Nevada City, and
 intermediate points, via Auburn and
 Grass Valley, California, in conjunction
 with and as an extension of the service
 now being rendered by applicant between
 Sacramento and Auburn and intermediate
 points.)
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) Application
) No. 11332
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- A. B. Roehl, for applicants.
- Edward Stern for American Railway Express Company,
Protestant.
- W. S. Johnson, for Southern Pacific Company, Protestant.
- Edson Abel, for Nevada County Farm Bureau and California
Farm Bureau Federation, Protestants.
- Milon & Milon, by Frank M. Milon, for Nevada County
Narrow Gauge Railroad Company,
Empire Mines and Investment Company, North Star
Mines Company, Idaho-Maryland Mines Company,
Brunswick Consolidated Gold Mines Company,
Original 16 to 1 Mining Company, Marchy Mines Company,
Western Consolidated Mines, Inc., Arctic Trustees,
formerly Artic Mining & Power Company, Protestants.
- Lynne Holly for Grass Valley Chamber of Commerce, City
of Grass Valley, Protestants.

BY THE COMMISSION -

O P I N I O N

Oscar Schneider, Walter Schneider and Frank Schneider, a
 co-partnership operating under the firm name and style of
 Schneider Bros., by their amended application have petitioned
 the Railroad Commission for an order declaring that public con-
 venience and necessity require the operation of an auto truck
 line as a common carrier of freight between Auburn and Forest
 Spring Service Station, a point on the Auburn-Grass Valley
 highway, approximately 5½ miles south of Grass Valley, and to

consolidate such extension of route with the present authorized service between Sacramento and Auburn, authority for which is contained in this Commission's Decision No. 11745, on Application No. 2747, decided March 5, 1923.

Public hearings on this application were conducted by Examiner Handford at Auburn and Grass Valley, the matter was duly submitted and is now ready for decision.

Applicants propose to operate one round trip daily between Sacramento and Forest Springs Service Station, to charge rates in accordance with a schedule marked "Amended Exhibit A", and to use as equipment one 2½ ton and one 3 ton White Truck, both equipped with pneumatic tires.

Applicants rely as justification for the granting of the desired certificate on the following alleged facts: that there is now no available public transportation between Auburn and Forest Springs Service Station; and that there is a necessity for the establishment of the proposed service.

A. L. Schneider, employed as manager for applicants, testified regarding the present investment and operations of applicants, the investment being approximately \$38,000, ten trucks and six trailers being operated. This witness had made an investigation regarding the business available on the proposed extension and estimates 1500 tons per year as now available from which a revenue of approximately \$10,000 would be derived. A terminal station is proposed at Forest Springs Service Station and arrangements are to be made with garages and service stations at points on the highway between Auburn and the terminus of the line, where shipments may be received or delivered, thereby accommodating patrons who reside at points away from the highway. The witness estimates that 250 families would be served by the proposed extension, all of whom are located within 2½ miles of the Auburn-Grass Valley highway, and who have no available transportation service.

Twenty-one witnesses testified in behalf of applicants. The following tabulation sets forth the principal items of their testimony and available tonnage:

<u>NAME</u>	<u>RESIDES</u>	<u>BUSINESS</u>	<u>TONNAGE</u>
Walter Searcey	2 miles north of Auburn	Garage, grocery and service station.	Groceries, ice cream and supplies 25 tons per annum.
H. P. Hansen	6 $\frac{1}{2}$ miles north of Auburn.	Chicken business and dairy.	Cream and eggs to Sacramento, - receives hay and groceries. 25 tons per annum.
J. E. Cunningham	15 miles from Auburn	General farming	Eggs and cream shipped. Receives feed 50 tons per annum.
D. P. Larson	14 miles north of Auburn.	Service Station and Auto Camp.	25 tons per annum.
W. F. Beck	6 miles north of Auburn.	Service Station Grocery Store	Ships cream to Sacramento. Receives ice cream and groceries. 25 tons yearly.
E. A. Graham	8 miles north of Auburn.	Gas station Grocery store and chicken ranch.	Ships eggs, receives groceries and ice cream 25 tons per annum.
A. A. Oest	7 $\frac{1}{2}$ miles north of Auburn.	General Farming	Ships milk, eggs, cream, wool and fruit. Receives feed. 75 tons annually with 20 gallons cream and 7 cases eggs weekly.

<u>Name</u>	<u>Resides</u>	<u>Business</u>	<u>Tonnage</u>
Herman Oest	7½ miles north of Auburn	Stock raising and general farming.	Ships cream to Sacramento; lambs, veal, wool and dressed hogs to Roseville, Auburn and Newcastle. Receives feed. 50 tons annually.
John Rondoni	19 miles north of Auburn.	Service station and grocery.	10 to 15 tons annually.
L. Cecil	Supt. Bear River Ranch	Produces eggs, pork and fruit.	150 tons annually.
John Bean	4½ miles south of Grass Valley	General farming.	25 tons annually.
Edw. Joerger	6 miles north of Auburn.	Stock raiser.	35 to 40 tons annually.
L.R. Clow	4 miles north of Auburn.	Poultry raiser.	Eggs and feed. 30 to 35 tons annually.
S.A. Hensley	4½ miles north of Auburn.	General rancher.	Eggs, cream and feed. 38 tons annually.
J. F. Willits	9 miles north of Auburn, 1 mile west of highway.	Poultry and stock ranch.	30 to 40 tons per annum.
A. E. Smith	14 miles north of Auburn.	Service station also small ranch.	59 or 60 tons annually.
W. M. Higgins	11 miles north of Auburn.	General ranching.	20 tons per annum.
Wm. Gauthier	10 miles north of Auburn.	Farmer	100 tons hay, 10 tons feed 200 cords wood annually.
Wm. Cramer	6½ miles north-west of Auburn (1 mile off highway)	Farmer	7 tons feed per annum.
B. Kenison	5 miles north of Auburn.	Dairy	150 tons hay per annum.
Sam Depino	3 miles north of Auburn.	Farmer	8 to 10 tons per annum.

The granting of the application is protested by Nevada County Narrow Gauge Railroad Company. Witnesses for this protestant testified regarding the financial condition of this carrier and the necessity for the retention of all freight business to enable the successful operation. It appears, however, that by reason of the amendment of the application establishing the northerly terminus at Forest Springs Service Station, a point approximately 5½ miles south of Grass Valley, instead of at Nevada City as originally applied for, that no territory tributary to or served by this protestant will be affected, none of applicants' witnesses being located at points where they could utilize the service of the narrow gauge railroad.

Protestant, American Railway Express Company withdrew its protest by reason of the proposed extension not affecting rail service and protestant, Southern Pacific Company, offered no testimony in opposition to the granting of the application.

After full consideration of the record herein we are of the opinion and hereby conclude applicants have established the fact that public convenience and necessity require the authorization sought for the proposed extension of service. The public residing along the portion of the route north of Auburn, who are now deprived of any form of public transportation will be afforded a reliable service for the shipment of their farm, dairy and orchard products and for the receipt of grain, feed and other necessities. At present it is necessary for the ranchers and poultrymen to bring their products to Auburn for forwarding to market and to receive shipments at Auburn of commodities needed in the conduct of their business. The proposed service will not conflict with any now being given by any authorized carrier, rail or truck, but will provide regular and dependable service to a district now sparsely settled but presenting possibilities of development in which a regular transportation service will materially assist.

Oscar Schneider, Walter Schneider and Frank Schneider, co-partners doing business under the firm name and style of Schneider Bros., are 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

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion as appearing in the opinion which precedes this order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Oscar Schneider, Walter Schneider and Frank Schneider, co-partners doing business under the firm name and style of Schneider Bros., of an automobile truck line, as a common carrier of freight, between Auburn and a point on the Auburn-Crass Valley highway known as Forest Springs Service Station and intermediate points, such operation to be conducted in addition to and as a portion of the operation now conducted by said applicants between Sacramento and Auburn and intermediate points under the authority contained in this Commission's Decision No. 11745 on Application No. 8747, as decided March 3, 1923, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to Oscar Schneider, Walter Schneider and Frank Schneider, copartners doing business under the firm name and style of Schneider Bros., authorizing the operation of an automobile truck line as a common carrier of freight between Auburn and a point on the Auburn-Crass Valley highway known as Forest Springs Service Station and intermediate points, said operation to be

consolidated with the freight operation now conducted by said applicants between Sacramento and Auburn and intermediate points under the authority as heretofore conferred by this Commission in its Decision No. 11745 on Application No. 8747, decided March 3, 1923, and subject to the following conditions:

1- Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

2- Applicants 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 thirty (30) 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 applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20th day of

November, 1923.

C. A. Scamney

Thomas E. Lovell

H. J. Carr
COMMISSIONERS.