

Decision No. 20787

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GEORGE G. HARM and HAROLD B. FRASHER,)
 doing business under the firm name and)
 style of Valley Motor Lines, for a)
 certificate of public convenience and) Application
 necessity to operate an auto truck) No. 14474
 service as a common carrier of property,)
 for compensation, over the public highways)
 between San Francisco and Fresno, California.)

Sanborn & Roehl and De Lancey C. Smith, by A.B. Roehl,
 for Applicants.

W. S. Johnson, for Southern Pacific Company, Protestant.

W. G. Bain, Norman A. Asp, and W.S. Johnson, for
 Atchison, Topeka & Santa Fe Railway Company, Protestant.

Geo. Baker and Edward Stern, for American Railway Express
 Company, Protestant.

W. J. Quinn, for The White Lines.

BY THE COMMISSION -

OPINION

George G. Harm and Harold B. Frasher, a co-partnership doing
 business under the firm name and style of Valley Motor Lines,
 have petitioned the Railroad Commission for an order declaring
 that public convenience and necessity require the operation by
 them of an auto truck line as a common carrier of property, for
 compensation, between Fresno and San Francisco.

Public Hearings on this application were conducted by
 Examiner Handford at Fresno and San Francisco, the matter was
 duly submitted and is now ready for decision.

Applicants propose to charge rates in accordance with a
 schedule as shown in paragraph III, of the application; to operate
 daily, except Sunday, over routes via Livermore or Pacheco Pass;
 and to use as equipment four 5-ton pneumatic tired trucks and
 four 5-ton trailers, together with such additional equipment as

may be necessary for traffic requirements.

Applicants rely as justification for the granting of the desired certificate upon the following alleged facts: that applicants, who are now, with other parties, operating a union truck terminal at Fresno receive daily request from merchants for the establishment of a service as herein proposed, and have been promised a large amount of traffic should the service be established; that at present four or more truck lines are operating without certificates between San Francisco and Fresno transporting a large volume of traffic; that applicants believe the auto truck service required by the public between the points proposed is a regular service between fixed termini and over a regular route and therefore within the provisions and requirements of the Auto Stage and Truck Transportation Act; and that applicants desire to secure a certificate of public convenience and necessity therefor.

Harold B. Frasher, of the applicant co-partnership, testified that he had eight years experience in the trucking business and that the partnership now owned 10 trucks and 7 trailers, a total tonnage capacity of 119½ tons. It is proposed to operate 6 wheel trucks and 4 wheel trailers on the proposed new service. This witness had investigated the traffic possibilities over the proposed route and had found approximately 25 tons each way daily being transported by truck between San Francisco and Fresno. Interviews with shippers and receivers of freight have resulted in promise of 13-1/2 tons for transportation, daily, from San Francisco to Fresno, and 5-1/2 tons, exclusive of raisins, daily from Fresno to San Francisco. On the basis of the tonnage now available, this witness estimates a monthly revenue of \$5872.50 with an operating expense of \$4000. or a net monthly return of \$1872.50. Applicants have been operating trucks between Fresno and San Francisco since October, 1926. The operation has been in truck loads for one shipper or consignee, and it is now desired to render the proposed service to all shippers and receivers of freight,

handling all consignments without restriction as to small shipments or character of commodity, thereby expediting time in transit by store-door delivery in either San Francisco or Fresno. This witness also testified as to the financial ability of the co-partnership to furnish such additional equipment as might be necessary to care for the proper handling of future traffic.

The following witnesses testified at Fresno and San Francisco in support of the application, and the volume of their business which would be transported over applicants' proposed line is reflected in the following tabulation:

| <u>Witness</u> | <u>Business</u> | <u>Average daily tonnage</u> |
|-------------------|---|------------------------------|
| H. F. Marion | Firestone Tire & Rubber Co. | 2000 to 2500 lbs. |
| Halvor Larsen | Body Building, Tires and Auto Parts | 1000 to 2000 lbs. |
| R.M. Talbott | Tires | 5 tons (monthly) |
| W.E. Lauritzen | Body Builder | 125 tons (annually) |
| T. Sargent | Wholesale Groceries | 1 to 3 tons |
| V.B. Lehnberg | Tires and Service Station | 400 to 500 lbs. |
| Geo. G. Goodwin | Tents and Awnings | 500 lbs. |
| Scott K. Woods | Iron and Steel | 2 tons |
| Joe Pimental | Manager Colyear Motor Sales, Auto Parts | 400 lbs. |
| Louis E. Ruechart | Bearing Supply Co. Valley Body Works | 400 to 500 lbs. |
| A. H. Fester | Manager, Samarkand Co. Ice Cream | 750 to 1250 lbs. |
| Wm. Stubenbord | Hot and Cold Corporation of San Francisco | 500 to 900 lbs. |
| L.A. Garabaldi | Leo. J. Myberg Co. Radio sets, parts and supplies. | 1000 lbs. |
| Robt. B. Nusser | Sales Manager, American Biscuit Co. | 2500 to 5000 lbs. |
| H.R. Le Compt | Traffic Manager, Kelly-Springfield Tire Co. | 2 tons (weekly) |
| R.J. Kovan | Supt., Traffic and Delivery Reos Bros. Clothiers. | 500 lbs. |

| <u>Witness</u> | <u>Business</u> | <u>Average daily tonnage</u> |
|------------------|---|------------------------------|
| Jack E. Thornton | Employed by Stanton & Barry handling traffic for Kraft Cheede Co. | 1500 to 1700 lbs. |
| Marcus L. Glazer | Sales Manager, Glazer Bros. Cigars, Tobacco, candy and beverages. | 2-1/2 to 3 tons |
| Clifford A. Kay | Office Manager, Firestone Tire and Rubber Co. | 500 to 1000 lbs. |

The reasons advanced by the foregoing witnesses in support of their desire for the granting of the proposed service are (1) satisfactory rates, (2) preferring truck service, (3) now using truck service between San Francisco and Fresno, (4) shorter time in transit, (5) store door pick-up and delivery eliminating local drayage charges, (6) desire for responsible and reliable truck operation, (7) lower rates by truck than by rail, and (8) later receipt of shipments by truck than available by rail freight carriers.

George Upton, receiving and shipping clerk at the Union Truck Terminal Warehouse, Fresno, testified that certificated truck lines in Fresno operated out of his place of employment and that non-certificated truck operators delivered shipments at such terminal for forwarding to points on certificated lines. Many requests, practically daily, have been received by him for transportation of property from Fresno to San Francisco. About 25 tons of property, transferred by truck from San Francisco, are delivered at this terminal for forwarding to points on the lines of certificated freight carriers operating out of this Fresno terminal.

The granting of the application is protested by Southern Pacific Company, the Atchison, Topeka & Santa Fe Railway Company, and the American Railway Express Company.

P.W. Barnard, employed in the General Manager's Office of Southern Pacific Company, testified regarding the results of his investigation relative to the freight service of his company between Fresno and San Francisco. A daily service is available in each direction. Shipments are received at San Francisco until 4:00 P.M.

and are available at the Fresno freight house between 7 and 8 A.M. the following morning. In the reverse direction, freight is received at Fresno until 4:00 P.M. and is available for delivery to consignees at San Francisco at approximately 1 P.M. on the following day.

P.W. Doane, trainmaster of the Valley Division of Atchison, Topeka & Santa Fe at Fresno testified regarding the service offered by his company. Freight delivered by shippers at San Francisco up to 4:00 P.M. daily is available for consignees at Fresno at 8:00 A.M. the following day. In the opposite direction, freight delivered by shippers at Fresno up to 4:00 P.M. is available for consignees at San Francisco on the morning of the second day after its departure from Fresno.

W. H. Sawtelle, Manager of the Fresno branch of Bass-Heuter Paint Company, testified that his branch received approximately two tons of freight daily from San Francisco using the railroads for such transportation and having found the service to be satisfactory. Witness is located six blocks from the Southern Pacific freight house and uses his own trucks for the local delivery from the freight house to his branch store.

E. L. Richter, one of the proprietors of Richter Bottling Works at Fresno, ships empty bottles to San Francisco and is of the opinion that there is no need for the additional service here proposed. It appears, however, that this witness has utilized trucks for shipments to San Francisco on a contract basis.

C.F.Cowen, Manager of Hockett-Cowen Music Company of Fresno testified as to practically daily use of railroad service from San Francisco; that such service, as well as that of the American Railway Express Company, was satisfactory and he had no need for any additional service as herein proposed.

L.A.Runnelsburg, employed by Kutner-Coldstein Co., dealers in general merchandise, grain and groceries at Fresno, testified as to the use of both railroads in the transporting of less than car-

load freight from San Francisco, an average of from 3 to 5 tons, daily, being received, the service being satisfactory and witness being of the opinion that no reason existed for the authorization of additional service. It appears, however, that this witness is now, and for the past six months has been receiving wire, hardware and roofing by truck.

A. E. Caris, employed with a packing company at Fresno, handling dried fruit and raisins and making shipments to and from San Francisco, testified that he knew of no reason for the authorization of additional truck service. This witness has used trucks to make overnight deliveries to San Francisco to connect with outgoing steamers and has found such service to be satisfactory. Most of his less-than-carload shipments are forwarded by the rail lines and the service is satisfactory and without cause for complaint.

Ray Fellows, branch manager of Armour & Company at Fresno, testified as to his daily use of the rail lines in the shipments of less-than-carload freight between Fresno and San Francisco, approximately 6000 pounds weekly being so handled. Witness has no need for additional service at this time, all his smoked and canned meats being now hauled by truck from San Francisco with a tonnage of approximately 12½ tons weekly. The present truck rates and service are very satisfactory.

Roy Hall, President, Inland Iron Company, Fresno, dealers in wholesale iron, steel, hardware and plumbing supplies, testified as to the use of railroad service almost daily in the transportation of less-than-carload freight, such service being satisfactory, and no need being apparent for the truck service proposed. It appears, however, that this witness has been using truck service for over two years in the transportation of iron, steel and hardware, shipments averaging 5000 to 6000 pounds weekly. Witness ships by trucks on account of a more satisfactory rate being available on his commodities.

S. E. Hickman, employed by San Joaquin Light & Power Company and Valley Electric Company, Fresno, uses less-than-carload rail freight service daily, an average tonnage of seven tons being handled. The service of the rail carriers, and also that of the American Railway Express, is satisfactory for this witness, who knows of no need for additional service.

C.F.Harris, employed at the Fresno branch of the Zellerbach Paper Company, testified that his company used the less-than-carload freight service of the rail lines, daily, receiving satisfactory service, about seven tons daily being so transported. Witness knows of no need for the authorization of additional truck service, but as the routing of shipments is controlled by the traffic manager of his concern in San Francisco, one-third of his less-than-carload business is received by truck and with satisfactory service.

Frederick S. Buckland, with Coopers, Inc., a Fresno department store; Andrew P. Dolan, with Dolan Wrecking and Construction Company; L.M.Barker, President of Barker-Mitchell Co., furniture and carpets; and B.H.Staples, stationery and office supplies, all use rail transportation for their shipments and have no need for the truck service proposed, satisfactory service being available by the rail carriers and the facilities of the American Railway Express Company.

L.L.Walker, office manager of Valley Lumber Co., Fresno, uses freight service of rail lines and finds same adequate for his company's requirements. Witness has used truck transportation in the receipt of nails from San Francisco because a more favorable rate was available, but is not now handling by truck.

E. L. Chaddock, of Chaddock & Co., raisin packers of Fresno, uses the freight service of the rail carrier between San Francisco and Fresno, principally during the fall months, and has found such service to be satisfactory. Witness has also used truck service in the shipment of raisins to San Francisco for steamer delivery, and has found such service to be satisfactory.

Geo. Baker, special representative for American Railway Express Company, filed exhibits showing train services, rates, collection and delivery limits at terminals, all as applicable to the route herein sought to be served by applicants. Witness in the course of his investigation, had found no complaint against the service of his company.

The record in this proceeding shows a demand for a responsible truck service between San Francisco and Fresno, operating as a common carrier.

Practically all public witnesses, whether called by applicants or protestants, are using truck service in the transportation of commodities, such service presenting advantages in lower rates, elimination of pick-up and delivery charges, or more expeditious handling with delivery to store-door, shipside, or warehouse destination. The record shows a considerable volume of shipments moving by truck between the terminals sought to be served by applicants and a desire on the part of shippers and receivers of freight for the establishment of a regularly authorized and responsible carrier to care for such service. No complaint exists as regards the service, facilities or rates of protestant, American Railway Express Company, it appearing that the class of shipments for which the service is desired are not such as would ordinarily move by protestants' service.

The record herein justifies the granting of the desired certificate, and as applicants have requested the establishment of alternate routes between the termini and there being no intermediate business sought to be handled, the order herein will provide authorization for alternate routing.

George C. Harm and Harold B. Frasher, doing business under the firm name and style of Valley Motor Lines, 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, and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by George G. Harm and Harold B. Frasher, doing business under the firm name and style of Valley Motor Lines, of an automobile truck line as a common carrier of property, for compensation, over the public highways between San Francisco and Fresno, via Altamont or Pacheco Pass, said service being for through shipments only and not to include any local or intermediate business to or from any point intermediate between Fresno and San Francisco, and

IT IS HEREBY ORDERED that a certificate be and the same hereby is granted to George G. Harm and Harold B. Frasher, doing business under the firm name and style of Valley Motor Lines, for the operation of an automobile truck line as a common carrier of property for compensation, between the termini of Fresno and San Francisco, via the Altamont and/or Pacheco Pass routes, and subject to the following conditions:

1. The authority hereby granted does not include the transportation of any property locally between any point intermediate between San Francisco and Fresno, nor the transportation of any property between the termini of Fresno and San Francisco and any intermediate points on either route herein authorized.
2. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

3. 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.

4. 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.

5. 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 other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 18th day of February, 1929.

C. J. Seaver

Leon C. White

M. J. C. C.
COMMISSIONERS.