

Decision No. 21285.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of  
(1) FRANK A. DEVINE, EMIL GRAFFIGNA  
and DAVID GRAFFIGNA for certificate  
of public convenience and necessity  
to operate (2) as a common carrier  
of freight service between Stockton,  
California, and Jackson, California.

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) Application No. 15293  
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In the Matter of the Application of  
ALBERT ARATA, for certificate of public  
convenience and necessity to operate  
a freight service as a common carrier  
between Stockton and Jackson, California,  
and intervening points.

) Application No. 15329  
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Jacobs & Jacobs, by W. R. Jacobs and A.L. Pierovich  
for applicant in Application No. 15293.

Ralph McGee for applicant in Application No. 15329.

W. S. Johnson for Southern Pacific Company and  
Stockton-Jackson Stage Line, protesting both  
applications.

E. O. Erickson for Amador Central Railroad, protest-  
ing both applications.

Edward Stern and T. C. Graves for Railway Express  
Agency, Inc., protesting both applications.

Wm. G. Snyder for Piccardo Bros. protesting both  
applications.

BY THE COMMISSION:

O P I N I O N

Application No. 15293 asks for a certificate of public  
convenience and necessity to establish service as a common  
carrier for the transportation of freight and baggage between  
Stockton and Jackson, serving the intermediate points of  
Waterloo, Lockeford, Clements and Ione. Application No.  
15329 requests permission to establish service as a common  
carrier for the transportation of freight between Stockton

and Jackson "and all intermediate points", such points being given in the filed tariff as Clements, Ione and Sutter Creek.

Public hearings were held by Examiner Cannon at Jackson and Stockton, the matters were submitted and are now ready for decision. At the outset it was agreed that the two proceedings should be consolidated for hearing and decision. In discussing the offers of service and the testimony we will treat the applications separately and will refer to the applicant in Application No. 15293 as Devine and in Application No. 15329 as Arata.

By agreement between the parties applicant Arata first presented his case. Attached to his application are proposed tariffs and time schedules, and the statement that equipment to be operated would consist of two Federal trucks. It is proposed to operate one schedule each way daily, leaving Jackson at 7:00 a.m. arriving at Stockton at 10:45 a.m. and leaving Stockton at 1:00 p.m. arriving at Jackson at 4:45 p.m. For this service applicant fixes a charge on freight shipments either way between Stockton and Jackson of 40 cents per 100 pounds with a graduated charge to intermediate points. It is alleged in the application that present freight service by the railroads is too slow and that there have been complaints from merchants in Ione, Sutter Creek and Jackson.

Testifying in his own behalf, Arata stated he was engaged in the wholesale produce business at Jackson and that he buys his goods in Stockton, hauling them to Jackson and

other towns on the proposed route, where he re-sells them to regular customers. This expedited truck service he claims to be especially desirable in the transportation of fruits and vegetables, and in assisting merchants to replenish their stocks on short notice. Shipments from San Francisco to Jackson come by way of Southern Pacific through Stockton, to Galt and Ione where connection is made with the Amador Central to Martel and thence by truck to Jackson. The bulk of this applicant's business transported by his trucks consists of shipments from Stockton to Jackson with very little business to or from the intermediate towns.

Applicant Arata called five witnesses from Jackson all of whom testified substantially to the same effect. They were engaged in the general merchandise business, use the rail line facilities for the bulk of their shipments from San Francisco and Stockton, and rely upon Arata's truck service for emergency or fill-in shipments. These witnesses were firm in the belief that rail service was indispensable, and much as they favored the continuance of Arata's service they would manage to get along without it if in any way it threatened the impairment of rail service. It was stipulated that five Sutter Creek witnesses and three Ione witnesses, not called, would testify substantially the same as the Jackson witnesses. Arata rested his case at Jackson and called no witnesses at the adjourned hearing at Stockton.

The application of Devine offers to serve all points specified by Arata except Sutter Creek, and to charge 60 cents per 100 pounds on freight shipments between Stockton and Jackson as against 40 cents proposed by Arata with a corresponding increase in rates to other points proposed to be

served by both applicants. In other respects the two applications are substantially the same. Devine files tariffs and time schedules with his application and avers that his equipment will, at the beginning, consist of a two-ton truck. His time schedule calls for one trip daily each way, leaving Stockton at 8:30 a.m., arriving at Jackson at 11:45 a.m. returning, leave Jackson at 1:10 p.m., arriving at Stockton at 3:45 p.m.

Devine is one of three partners engaged in the automobile and auto supply business at Lodi and who join with him in the application. In support of his offer he testified that he and his partners were financially able to carry on the proposed service and that he himself owned a 2-ton Graham truck which would suffice for the present. He estimated a tonnage of 750 tons a year which he expected to haul, the major portion from Stockton to Jackson, with very little back-haul. In fact, he had no information as to the amount of back-haul.

This applicant called on his own behalf only one public witness from Jackson, one from Stockton and one from Lodi, with the testimony of some ten witnesses stipulated into the record. While these witnesses testified they would use Devine's service, they also stated that their small emergency business was being cared for by a truck line operated by one Smalley.

Both applications were protested by Southern Pacific Company, Amador Central Railroad Company, Railway Express Agency, Inc., Stockton-Jackson Stage Line, and Piccardo Bros.

Southern Pacific Company freight service from Stockton to Jackson is via Lodi and Galt to Ione, from which point shipments are transported to Martel by another rail line and to Jackson by a truck line. A witness from Southern Pacific Company testified that a recent check of one month's operations

showed that freight shipments delivered to his line by four o'clock p.m. at Stockton were uniformly available for unloading at Ione by 2:45 p.m. of the next day.

The Amador Central Railroad Company operates a rail line connecting Ione and Martel, a distance of approximately fifteen miles. The superintendent of this line testified that a diversion of 750 tons of freight from the railroad to another carrier would entail a loss in operating revenue to the rail line of \$2,000.00. His company has continued to operate for several years at a loss, always hopeful of new or increasing business. Three witnesses from Jackson and vicinity testified that the service of this railroad was satisfactory and that there was no necessity for additional truck service. Moreover, they would not be willing to pay the freight rates asked by applicants.

Railway Express Agency introduced an exhibit indicating one direct express service each way daily between Stockton and Jackson, serving as intermediates Lockeford, Clements and Ione. There had been no complaints against this service, according to the testimony of an operating witness.

Stockton-Jackson Stage Line is operated by one John Smalley between Stockton and Jackson and all intermediate points, and transports packages up to one hundred pounds weight limit. This carrier gives a service of three round trips daily and hauls for merchants and shippers along the route, performing for them a sort of fill-in service by which he cares for their emergency orders. Apparently there is no complaint against this service.

Piccardo Bros. are certificated truck carriers between Martel and Jackson, forming the connecting link between the rail terminus at Martel and Jackson. They also

render an "on call" service between Stockton and Jackson. The chairman of the Amador County Board of Supervisors testified for this protestant and stated that in his foundry business at Sutter Creek he found the truck service satisfactory. In the judgment of this witness it would be detrimental to the business interests of the county should any service be authorized which might cause impairment or abandonment of the Amador Central Railroad.

We have given careful consideration to the entire testimony in this proceeding and have arrived at the conclusion that public convenience and necessity do not require the establishment of the service proposed in either application. Present service consists of rail freight, rail express, the Smalley service, the Arata service and various private trucks, and while the rail service may be somewhat slow it is not unsatisfactory. The attitude of practically all witnesses at Jackson was that they are satisfied with present freight transportation facilities and would oppose the granting of either application should the result be the abandonment of the Amador Central rail line. This carrier shows a total operating loss of \$32,000.00 in the last four years, but despite this fact renders a certain definite service to Amador County which the merchants and shippers are apparently unwilling to do without. In brief, we deduce from the record that though present facilities may not constitute the most adequate service it is nevertheless satisfactory to the users of such service. Under these circumstances we feel that both applications should be denied and the order following will so direct.

ORDER

Public hearings having been held in the above entitled application, the matters having been submitted and being now ready for decision

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity do not require the proposed service, and

IT IS HEREBY ORDERED that Application No. 15293 and Application No. 15329 be and the same are hereby denied.

Dated at San Francisco, California, this 27<sup>th</sup> day of June, 1929.

Frank D. Lovitt

Cl. Seaver  
Emmuel

Leon Whiteley

M. J. Am  
Commissioners.