

Decision No. 23123

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 R. A. CONYES for certificate of
 public convenience and necessity to
 operate automobile trucks as a common
 carrier of property, between San Francisco
 and East Bay Cities on the one hand, and
 Stockton, Sacramento and points between
 on the highway via Lodi on the other hand,
 and between Sacramento and Stockton and
 all points between, via Lodi.

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) Application
) No. 16862
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ORIGINAL

Gwyn H. Baker, for Applicant.

H. H. Sanborn, for Sacramento Navigation Co.; Sacramento Valley Industries and Sacramento Motor Transport Co., Protestants.

Wm. F. Brooks, for Atchison, Topeka & Santa Fe Railway Co., Protestant.

R. L. Vaughan, for Bay Cities Transportation Co., Consolidated Motor Transport Company and Merchants Express and Draying Co., Interested parties; for Erickson Navigation Co., Protestant.

W. H. Metson, for California Transportation Co., Protestant.

H. W. Hobbs and W. S. Johnson, for Southern Pacific Co. and Golden Gate Ferries.

L. N. Bradshaw and Geo. E. Walk for Western Pacific Railroad Company and Sacramento Northern Railroad.

Richard N. Mather, for Pacific Greyhound Lines, Inc., Protestant.

W. P. Jennings, for Central California Traction Co., Protestant.

W. G. Stone, for Sacramento Wholesalers & Manufacturers Association, Protestants.

W. S. Johnson and Edward Stern, for Railway Express Agency, Protestant.

L. J. Smallpage, for Overland Transfer Co., Protestant.

F. H. Stone and W. E. Sneed, for Sacramento Wholesalers and Retailers Association.

LOUTRETT, Commissioner -

OPINION

This proceeding is an application by R. A. Conyes for a

certificate of public convenience and necessity to operate an auto trucking service as a common carrier

- (a) Between San Francisco and the East Bay Cities on the one hand, and Stockton, Sacramento and all points on the highway via Lodi between Stockton and Sacramento on the other hand; and
- (b) Between Stockton and Sacramento and all points on the Highway between Stockton and Sacramento via Lodi and Galt.

It is not proposed to operate locally between San Francisco and East Bay cities. The term "East Bay Cities" used herein is declared to mean Oakland, Alameda, Emeryville, Piedmont, Berkeley, Albany, El Cerrito, Richmond and San Leandro and all points within the boundaries of said cities.

The rates proposed to be charged and the rules and regulations governing the proposed service and the time schedule proposed to be followed are set forth in Exhibits A and C. The routes are shown in Exhibit B and the equipment proposed to be used is set forth in Exhibit D. The exhibits A, B, C and D are attached to the application and by reference made a part thereof.

Public hearings were held at San Francisco, Stockton, Sacramento and Oakland, testimony heard and an order of submission made.

Testifying as to the financial responsibility of applicant, A. C. Posey, representing a bonding company, stated that his concern would bond applicant to the extent of one million dollars, the company's judgment in the matter being based on previous experience with R. J. Conyes in the construction field. Witness stated he had no knowledge of the requirements or operations of a transportation company.

G. L. Carmichael, employed by applicant Conyes as manager, testified that he had twelve years experience in the transportation field, seven of them with the Highway Transport Company,

a certificated carrier. He declared that there was unlimited tonnage available for a truck service such as applicant proposes to operate, estimating at least 30 tons a day from San Francisco to Sacramento and a similar amount from San Francisco to Stockton, via Sacramento. He estimated further that out of 30 tons hauled 20 tons would be 3rd and 4th class commodities and 10 tons 1st and 2nd class. A large tonnage, he declared, was now being moved by truck between the points he proposes to serve, the service being performed by non-certificated or so-called "contract carriers." It was the opinion of witness that

Boat service to Sacramento - Is inadequate as to certain service; fine otherwise.

Rail services - Not as they should be; inadequate for L.C.L. shipments.

Truck Service (certificated) - Very poor into Sacramento, from Vallejo via boat line San Francisco to Vallejo.

Truck service (contract carriers) - Not satisfactory.

Applicant stressed particularly the need for early store-door delivery as proposed, the elimination of the many handlings necessary in connection with shipments by boat and rail, and the difference in the rates charged by existing carriers (plus drayage charge), and the rates proposed by applicant. He also declared that truck service was faster and more flexible. He testified that he had interviewed 30 or 40 shippers in Sacramento who had made unfavorable comment on existing service. Carmichael testified the present "small package" service to Sacramento was adequate. He stated he did not know how many express services by rail were available.

Twenty seven other witnesses were called by applicant, all shippers or receivers of freight. Of these several testified that the present service, rail, boat and truck, plus additional truck service performed for them under private contract fully met their transportation needs. One testified that he was

getting excellent service by rail and that he does not use trucks. Another testified that the proposed service would be of no use to him and another that he saw no need for more service. An Emeryville shipper testified that he would not use a truck unless directed to by a customer; that 95% of his freight was now moved by rail and boat in a satisfactory manner. Fourteen witnesses definitely declared they favored truck service largely because of the early store door delivery feature. More favorable rates were a factor with some of them, while others based their choice on the claim that a direct haul by truck eliminated excessive handling. Peculiarities of the commodities shipped by them influenced the choice of several shippers. Several of the shippers using private haulers express the opinion that regulated common carrier truck service would be preferable to service performed under a contract by private carriers.

The application was protested by the following:

Sacramento Navigation Co.
Sacramento Valley Industries and Sacramento Motor
Transport Co.
The Atchison, Topeka & Santa Fe Railway Co.
Erickson Navigation Co.
California Transportation Co.
Pacific Greyhound Lines, Inc.
Central California Traction Co.
Sacramento Wholesalers & Manufacturers Association.
Railway Express Agency.
Overland Transfer Co.
Southern Pacific Co. and Golden Gate Ferries.
Western Pacific Railroad Co. and Sacramento Northern Railroad

Protestants, in addition to the testimony of 28 witnesses, shippers and receivers of freight, presented a number of exhibits, covering their operations in and out of the terminals proposed to be served by applicant. Exhibit No.3 shows that service between San Francisco and Sacramento is as follows:

STEAMER LINES

California Transportation Co. Daily overnight service except Sunday
Sacramento Navigation Co. Tri-weekly Barge service.

STEAMER - AUTO TRUCK SERVICE

Monticello S. S. Co. Sacramento Motor Transport Co. Daily
except Sunday (Leaves S.F. 6 P.M. and gives depot
delivery in Sacramento at 6 A.M.)

ALL-RAIL SERVICE

Sacramento Northern R.R. Daily overnight service except Sunday
Santa Fe and connections Daily overnight service except Sunday
Southern Pacific R.R. Daily overnight service except Sunday
Western Pacific R.R. Daily overnight service except Sunday

EXPRESS SERVICE

Railway Express Agency, Inc. Daily Rail Express
Pacific States Express Daily Steamer Express except Sunday
S.F. - Stockton Express Daily Rail Express except Sunday

STAGE EXPRESS SERVICE

Pacific Greyhound Lines Daily Express service

AIR EXPRESS SERVICE

Boeing System Daily Express (Time 50 min. S.F. to Sacto.)
Consolidated Air Line Daily Express (Time 40 min. Oakland to
Sacramento)

In addition to the 13 carriers listed above there are also three authorized furniture carriers and several private or so-called "contract" carriers.

Exhibit No. 1 shows that during the period from May 1, 1930, to October 15, 1930, Southern Pacific freight trains arrived at Sacramento from San Francisco-Fruitvale, Oakland and Richmond sufficiently early to enable the crews to report merchandise "ready for delivery" at 9 A.M. The exceptions were few. On October 16, 17, 18, 20 and 21, the merchandise was reported ready for delivery at 7 A.M., the gain in time being due to the opening of the bridge between Martinez and Benicia and the discontinuance of the train ferry service between Port Costa and

Benicia. The bridge, it was stated, permits of later departure from Oakland and makes possible earlier delivery in Sacramento.

Exhibit No.2 of Western Pacific Railroad Co. shows merchandise train arrivals from San Francisco and Oakland at Sacramento from 5 A.M. to 8 A.M., the merchandise being ready for delivery at hours ranging from 7 A.M. to 9 A.M., but generally between 7 and 8. Exhibit No.10 shows Western Pacific train arrivals at Stockton ranging from 3 A.M. to 5:15 A.M. during the months of October and November, with merchandise ready for delivery "before 8 A.M. every day." By "ready for delivery" is meant available at the depots of the carrier to the consignees, or the drayage firm completing the delivery to their store doors.

Protestants also introduced two exhibits covering rates, (No.4 and No.5), one, Exhibit No.4, listing some 34 commodities proposed to be transported by applicant, with store door delivery, at rates as low or lower than the rates charged by existing carriers for depot delivery. Exhibit No.5 lists 33 commodities for the hauling of which applicant proposes to charge rates in excess of those charged by existing carriers for the same commodities. It is the contention of protestants that the rates structure of applicant, in effect, practically fosters a selection by applicant of the profitable haul, leaving to existing carriers such commodities as by reason of bulk or light weight are less desirable.

Protestants Exhibit No.7 shows a steadily declining passenger revenue on the Sacramento Northern Railway since 1920, due, it was testified, to private car and bus transportation. Exhibit No.8 shows the San Francisco-Sacramento Railroad freight revenue was approximately \$5000 less in 1928 than in 1920, the loss for the eight year period totaling \$203,753. For the same period the loss in passenger revenue totaled \$2,294,191, indicating that there has been no compensatory freight revenue increase to offset the loss of passenger revenues.

testimony of A. A. Bowman, traffic manager of California Transportation Company, was to the effect that his company had not paid dividends for four years, that its Stockton operations in 1929 resulted in a net loss of \$30,983.85 and that conditions "are worse" this year. He attributed the loss in freight traffic largely to activities of truck haulers of the "wild cat" variety.

The testimony of the shippers and receivers of freight presented by protestants was uniformly to the effect that the existing service by boat, rail and truck between San Francisco and the points proposed to be served by applicant was adequate, efficient and generally satisfactory. They testified that the delivery hours were satisfactory and that they had no complaint to make in connection with the drayage service necessary to obtain delivery from the depots of the rail and boat carriers.

Among the witnesses for protestants was J. P. Keating, President of Valley Industries, an organization of merchants, manufacturers and merchandise brokers, who testified that he had been directed to appear and voice the opposition of the organization to the proposal of applicant. Similar testimony was given by W. G. Stone representing the Sacramento Wholesalers and Manufacturers Association, who also vouchsafed the opinion that Sacramento's transportation needs were met in a highly satisfactory manner by existing carriers. He said impairment of this service by the "diversion of the cream of the traffic" which, he declared, would result from additional service under the rate structure proposed, would militate against the splendid service now enjoyed, a service, which, he stated, had been improved in an endeavor to meet truck competition.

After a careful and comprehensive review of the evidence in this proceeding and giving the fullest consideration to all the factors entering into the matter, it is concluded and found as a fact that public convenience and necessity do not require the establishment and operation of the service proposed by applicant. The evidence amply proves that existing carriers are adequately and efficiently serving the terminals involved and that traffic conditions do not justify a service, which while it may meet demands of a certain type of shipper, would, on the whole, but serve to impair services which, at this moment, are meeting the demands of every type of shipper. The record clearly shows that the existing carriers can and have met demands for early delivery and that their rates, on the whole, are not considered unreasonable by most of the shippers and receivers of freight.

The following form of order is recommended.

O R D E R

Public hearings having been held in the above entitled proceeding, testimony taken and an order of submission made,

IT IS HEREBY ORDERED that Application No. 16862 be and the same is hereby denied.

The above opinion and order are hereby declared to be the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of November, 1930.

W. J. Seavey
W. J. Seavey
Leon Whiskey
W. J. Seavey
W. J. Seavey
COMMISSIONERS.