

Decision No. 23290.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 EDWARD BAHLER for a certificate of)
 public convenience and necessity)
 authorizing the consolidation of)
 present operative rights and the)
 operation of an auto truck service)
 as an extension of said consolidated)
 rights to include transportation to)
 Pasadena and El Monte and to trans-)
 port milk, dairy products and dairy)
 feed and supplies from Devore and)
 adjacent territory thereto and)
 points adjacent to Beaumont.)

Application No. 16692.

ORIGINAL

Phil Jacobson, for Applicant.

Hugh Gordon, for G.A. Brinkman,
Dairy Delivery Company of
Southern California, Protestant.

Harry S. Payne, for Pacific Motor Express,
Protestant.

H. J. Bischoff, for Motor Service Express,
Protestant.

BY THE COMMISSION:-

O P I N I O N

In the above numbered application, as amended, Edward Bahler, operating a milk transportation service in Los Angeles, Riverside and San Bernardino Counties, seeks consolidation of all his present rights, extension of his service to Devore and to Beaumont, new delivery destinations at El Monte and Pasadena, and approval of a new rate structure as shown in Exhibit "A" attached to the application.

Public hearings thereon were conducted by Examiner Williams at Los Angeles.

The record presented has abundant affirmative proof of the propriety of granting applicant's requests as a matter of benefit to the milk producing interests. His several rights cover a large area in which, especially in its eastern portion,

dairying apparently is becoming a large industry. The protests made by other carriers were against extension of area now served and not against consolidation.

Motor Service Express serves Beaumont for all purposes as a property carrier. As applicant stipulated that the extension sought to the Beaumont area may be limited to points west of the junction of the Timoteo Canyon Road and the Yucaipa Highway, west of the city limits of Beaumont, the protest of Motor Service Express was withdrawn.

The protest of Brinkman and Payne affected service by applicant in the area west of Etiwanda Avenue, served under certificate by both protestants. This protest was based on the allegation that applicant had abandoned all service in this area. Bahler testified that the right to serve points west of Etiwanda Avenue was acquired by him by the purchase of the Agajanian rights, previously owned by Ray Anderson (Decision No. 20530, on Application No. 15210, dated November 30, 1928). Soon thereafter, applicant found that he had but three shippers in this area, whose shipments were not large and to whom service entailed loss on the part of the carrier. Accordingly, he told them that if they would arrange to have J.K. Hawkins (predecessor of protestant Brinkman) give them service it would satisfy applicant. For more than a year, therefore, applicant had not furnished, nor offered to furnish, service at any point west of Etiwanda Avenue. Applicant further testified that under his methods the milk had been transported to San Bernardino, thence to Los Angeles, thus entailing considerable loss of time. Hawkins' service was direct to Los Angeles. The fact remains that applicant did abandon his service west of Etiwanda Avenue without previously having acquired authority from this Commission to do so. There is now no evidence that the

service by protestant Brinkman to this area is not adequate and efficient; in fact, applicant testified that it is efficient and that no demand has been made on applicant by shippers in the area, and that Brinkman's rates are lower than those of applicant. The certificate acquired by applicant from Agajanian put upon him the duty, as well as the privilege, of serving the area, and when the duty is avoided or abandoned, the privilege should cease. For this reason the certificate to be granted herein will exclude all service west of Etiwanda Avenue except delivery to consignees in El Monte, Pasadena and Los Angeles.

Applicant seeks an in lieu certificate for all his operations and for the rate schedule. This will be granted as above indicated. The rate structure contains the rates now charged with rules governing their application as to pick-up zones, including extensions to Devore and near Beaumont, and delivery at El Monte and Pasadena. Applicant is now serving about 50 shippers with an average of 500 cans daily, and has ample equipment of efficient type.

O R D E R

Edward Bahler having made application to the Railroad Commission for authority to consolidate and unify his operating rights, as heretofore granted, for the transportation of milk and dairy feed and supplies in Los Angeles, Riverside and San Bernardino counties, for certain extensions of operations, for approval of a rate structure, and time schedules therefor, and for a certificate de novo in lieu of all rights consolidated; a public hearing having been held, the matter having been duly submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require that all the rights heretofore granted to or acquired by Edward Bahler by

Decision No. 18583 on Application No. 11602 and Decision No. 20530 on Application No. 15210 be, and they are, hereby consolidated and unified; provided, however, that that portion of the operating right acquired by applicant Bahler from J.T. Agajanian under said Decision No. 20530 on Application No. 15210, which is west of Etiwanda Avenue in San Bernardino County, is not included because of abandonment of service therein by said applicant.

IT IS FURTHER DECLARED that public convenience and necessity require the operation by Edward Bahler, in lieu of all operative rights of Edward Bahler heretofore granted to or acquired by him and hereinbefore consolidated and unified, of an automotive truck transportation service for the transportation, as a common carrier, of milk, cream and dairy products, and for the back haul of dairy supplies and empty containers to no others than dairymen shippers using this service. Operations to be between Los Angeles, Pasadena, El Monte and San Bernardino, on the one hand, and Riverside, Colton, San Bernardino, Redlands, Yucaipa, Upland, Arlington, Pedley, Devore, Highland and intermediate points, on the other hand, serving only the dairies located in the territory and along the following pickup routes, and three (3) miles each side thereof, which pickup routes are in the general vicinity of San Bernardino, Colton, Redlands, Riverside and Fontana, to wit:-

PICKUP ROUTES

(a) Beginning at the intersection of Highland Avenue and the westerly city limits of the City of San Bernardino; thence easterly along Highland Avenue to its intersection with City Creek:

(b) Beginning at the intersection of San Bernardino Avenue and Etiwanda Avenue, near the town of Etiwanda; thence easterly along San Bernardino Avenue to Fourth Street in the City of San Bernardino; continuing along said Fourth Street to Mt. Vernon Avenue; thence north along Mt. Vernon Avenue to Base Line Street; thence east on Base Line Street to Sterling Avenue; thence south on Sterling Avenue to City Creek Road; thence easterly on City Creek Road to its intersection with Church Street near the town of East Highland:

(c) Beginning at a point on Etiwanda Avenue approximately four (4) miles southeasterly of the town of Guasti where Santa Ana Avenue if projected westerly would intersect Etiwanda Avenue; thence easterly along such projection and Santa Ana Avenue and the most available roads connecting with Colton Avenue; thence easterly along Colton Avenue to its intersection with Church Street:

(d) Beginning at the intersection of Belle Grove Avenue and Etiwanda Avenue about one (1) mile south of the town of Wineville; thence north-easterly along Belle Grove Avenue to Mission Boulevard; thence easterly and southeasterly along Mission Boulevard through the City of Riverside to the intersection of Mission Boulevard, or its continuation, with the easterly city limits of Riverside:

(e) That route closest available to a line drawn east and west beginning at a point where Fourth Street of the town of Norco if projected easterly would intersect the southern projection of Etiwanda Avenue; thence east along such line to its intersection with the easterly city limits of Riverside:

(f) Beginning at the intersection of San Timoteo Canyon Road and Barton Avenue near Loma Linda; thence southeasterly along San Timoteo Canyon Road to its intersection with a county road about two (2) miles southeasterly of the Southern Pacific Railroad Station El Casco; thence along such county road to its intersection with the Ocean to Ocean Highway.

The trucks of the applicant may be operated and routed in a manner to give the most economic and efficient service, provided that, except as hereinafter set forth, no service of any kind may be given to or from any dairies located without the territory included within the zone bounded as follows:

Beginning at the intersection of Etiwanda Avenue and Highland Avenue, about one (1) mile north of Etiwanda; thence east along Highland Avenue to its intersection with the westerly city limits of the City of San Bernardino; thence following said city limits in a northerly and easterly direction to 37th Street in the City of San Bernardino; thence following said 37th Street easterly to a point where such street if projected would intersect City Creek; thence following City Creek in a southerly direction to a point near the town of Highland where City Creek is crossed by the tracks of The Atchison, Topeka & Santa Fe Railway;

thence following said Atchison, Topeka & Santa Fe Railway tracks southeasterly to their intersection with Church Street in the town of East Highland; thence south along Church Street to the Ocean to Ocean Highway in the town of Redlands; thence southeasterly along said Ocean to Ocean Highway to a point five (5) miles, more or less, northwesterly of the town of Beaumont where said Ocean to Ocean Highway is intersected by a county road leading westerly to San Timoteo Canyon Road; thence westerly along such county road to the San Timoteo Canyon Road; thence northwesterly along San Timoteo Canyon Road to its intersection with the San Bernardino-Riverside County Line; thence westerly along said San Bernardino-Riverside County line to La Cadena Drive (Colton Avenue); thence southwesterly along La Cadena Drive (Colton Avenue) to the city limits of Riverside; thence southerly and westerly along the eastern and southern city limits of the City of Riverside continuing westerly to a point on Magnolia Avenue where such avenue would be intersected by the western projection of the southernmost limit line of the City of Riverside; thence southwestwardly along Magnolia Avenue for a distance of about one and one-half (1½) miles, more or less, where Magnolia Avenue would be intersected by a southern projection of Etiwanda Avenue; thence north along such projection of Etiwanda Avenue and Etiwanda Avenue to its intersection with Highland Avenue the point of beginning.

Provided that service may be given without the limits of the above zone:

- (a) Along Cajon Road between Devore postoffice and the City Limits of Riverside and two (2) miles each side thereof; and
- (b) Along Yucaipa Road between its intersection with the Ocean to Ocean Highway, and its intersection with Eighth Street in the town of Yucaipa and three (3) miles each side thereof.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted Edward Bahler, applicant herein; in lieu of, and not in addition to, any and all operative rights heretofore granted to or acquired by said applicant Bahler, subject to the following conditions:

1. Applicant shall, within fifteen (15) days from the date hereof, file his written acceptance of the certificate herein granted accepting such certificate as a de novo certificate, in lieu of all previous rights.

2. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.

3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

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 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.

Dated at San Francisco, California, this 19th day of

January 1931.

C. L. Seaver
Leon C. Whittell
W. D. Carr
W. B. Harris
Frederic G. Stewart
COMMISSIONERS.