

Decision No. 23470

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of)
 BOB ARUTOFF for certificate of)
 public convenience and necessity) Application
 to operate a milk route truck) No.16492
 service.)

Lloyd O. Miller, for Applicant.

ORIGINAL

BY THE COMMISSION -

O P I N I O N

Bob Arutoff has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation of an automobile truck service as a common carrier of milk in cans from dairies located in the city of Los Angeles (Wilmington and San Pedro) and the county of Los Angeles to creameries located in the cities of Los Angeles and Long Beach, such certificate to be an enlargement of the rights heretofore contained in Decision No.20292, on Application No.14716.

A public hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked "Exhibit A", as attached to the application; to operate over a route and twice daily in accordance with a time schedule marked "Exhibit B", as attached to the application; and to use equipment as now presently operated over the authorized route, ample equipment now being owned by applicant to care for any additional traffic which may develop.

Applicant relies as justification for the granting of the above mentioned extension of operative rights upon the alleged fact that dairies have recently been established in the area proposed to be served by the additional operating right herein sought and that such dairies ship their product to creameries

located in Los Angeles proper or to Wilmington, San Pedro or Long Beach.

Two witnesses in the dairy business, and conversant with the previous service of applicant, testified regarding the satisfactory service rendered by applicant and as to the good equipment used in the service.

Bob Arutoff, applicant herein, testified as to his desire for the extension of service as herein applied for and the need for serving dairies now located in territory adjacent to but not covered by his existing certificated rights.

There was no protest against the granting of the desired extension of service nor any appearance in protest at the hearing.

We are of the opinion and hereby conclude that the application should be granted but that a certificate should issue in lieu of that contained in Decision No.20292 on Application No.14716, said in lieu certificate to cover all territory now served by applicant under the presently authorized certificate and the additional territory herein sought. The order will so provide.

Bob Arutoff is 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

A public hearing 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 foregoing opinion,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the operation

by Bob Arutoff of a freight truck service as a common carrier of milk and other dairy products between dairies located in the city of Los Angeles, Los Angeles county, Wilmington and San Pedro and creameries located in the cities of Los Angeles, Wilmington, San Pedro and Long Beach, operation to be conducted over the following route:

Beginning at the intersection of Central Avenue and Florence Avenue, Los Angeles, thence westerly on Florence Avenue to Arizona Avenue; thence southerly on Arizona Avenue to Rosecrans; thence west on Rosecrans to the ocean; thence following the ocean line to San Pedro and to Anaheim Street in Wilmington; thence east on Anaheim Street to the Los Angeles river in Long Beach; thence south to Ocean Avenue; thence east on Ocean Avenue to Cherry Avenue; thence north on Cherry Avenue to Anaheim Street; thence west on Anaheim Street to Truck Boulevard; thence northerly on Truck Boulevard to Rosecrans Avenue in Compton; thence west on Rosecrans Avenue to Central Avenue, thence north on Central Avenue to the intersection of Florence Avenue and Central Avenue. Returning by the reverse of the above route.

The foregoing route to include a pick-up service for milk and dairy products and for the return haul of empty containers to ranches or dairies located not more than one half mile on either side of the main highway along the route hereinabove mentioned, and provided that applicant shall not serve the territory in Los Angeles bounded as follows:

On the east by the Los Angeles River; on the west by Main Street; on the north by Northern Avenue and Florence Street; on the south by Dominguez Junction and a line drawn east thereof through Alameda Street and Long Beach Boulevard.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to Bob Arutoff for the operation of an auto truck service for the transportation of milk and dairy products and returning empty containers over the route as hereinbefore contained in the foregoing declaration, same to be in lieu of the rights heretofore granted by Decision No.20292 on Application No.14716, as decided October 3, 1929, and subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.

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 which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar 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 him under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 9th day of March, 1931.

C. C. Stewart
Leon Whittell
M. J. Curran
M. B. Harris
Fred G. Stevens
COMMISSIONERS.