

ORIGINAL

Decision No. 23644.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of D. S. ROSA ( Cambria Stage Line) for authority to change rates and weight limits on freight and express service and fares on passenger service.	)	Application No.16966
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H. J. Dubin for Applicant.

Cooper & White, by Chas. T. White, for Valley  
and Coast Transit Company.

HARRIS, Commissioner.

OPINION

D. S. Rosa, applicant in the above entitled proceeding, is operating an automobile service for the transportation of persons and property between San Luis Obispo and Cambria and intermediate points. The terms of his operating right provide that he may not transport any property weighing in excess of 75 pounds per unit. The instant proceeding requests an order of the Commission removing the weight limit, so that he may transport property without limitation as to weight; in other words, operate a general freighting business by truck, between San Luis Obispo and Cambria and points intermediate thereto.

The rates he proposes to charge and the service he proposes to give are shown in tariffs and schedules attached to the application herein and made a part thereof.

A public hearing was held at San Luis Obispo, evidence taken and an order of submission made. The matter is now ready for decision.

Valley and Coast Transit Company, a corporation engaged in the business of transporting freight between San Luis Obispo and Cambria, protested the granting of the application. Counsel for Valley and Coast Transit Company moved that the instant application be dismissed, on the ground that the denial by the Commission of previous applications by applicant for removal of the 75-pound limit had determined the matter on its merits, and that a hearing of the instant application constituted a needless repetition of a matter heretofore fully determined. The motion was taken under submission, and applicant was directed to proceed with the presentation of his case.

Six witnesses testified on behalf of applicant. Their testimony was largely to the effect that they believed in competition and were of the opinion that an order enabling applicant Rosa to transport freight without limitation as to weight of package would redound to the benefit of the shippers and communities served. Some of them expressed a desire to give Rosa some business, and others favored the service proposed because of a more favorable time schedule. The testimony of some thirteen other witnesses, it was stipulated, would be of the same tenor.

Counsel stipulated that in the past few years, the territory had developed considerably, particularly in the vicinity of Cambria and Morro, and it was also stipulated that the service given by protestant, Valley and Coast Transit Company was adequate and satisfactory.

Called as a witness by applicant, E. L. McConnel, President and Manager of Valley and Coast Transit Company and protestant in this proceeding, testified that his service between San Luis Obispo and Cambria was not profitable. He stated that he believed it could be made a profitable operation, if his Company transported all the common carrier freight available. He said that, notwithstanding the development described by preceding witnesses, his common carrier business had decreased, largely due to the fact that bakeries formerly using his service are now doing their own hauling, likewise a wholesale grocery concern serving a chain of stores. He stated that he had no objection to the Rosa service, provided the limitation as to the size of package was maintained.

It must be said that there is considerable merit to the motion of protestant's counsel for a dismissal of this proceeding. The records of the Commission clearly show that applicant Rosa had made two previous applications for a removal of the weight limit of 75 pounds. True, the applications referred to (Nos. 13475 and 16192) covered service between San Luis Obispo and San Simeon and intermediate points, and the present application refers to service only between San Luis Obispo and Cambria and intermediate points. Cambria, however, is an intermediate between San Luis Obispo and San Simeon, and the decision of the Commission (Decision No. 22926) on the two applications above referred to covered all the territory between San Luis Obispo and San Simeon. The fact that the territory affected was narrowed by a finding of the Commission that applicant Rosa had no legal right to serve beyond Cambria does not justify the conclusion of applicant's counsel that the present application for removal of the restriction between San Luis Obispo and Cambria presents an entirely new proposal.

However, I deem it advisable, in view of the evidence presented, to determine this matter on its merits. The motion to dismiss is hereby denied.

Carefully considering the evidence in this proceeding and the stipulation freely entered into by counsel that the present service of Valley and Coast Transit Company is adequate and satisfactory, I conclude and find as a fact that public convenience and necessity do not require the operation by applicant Rosa of an unlimited freight service between San Luis Obispo and Cambria and intermediate points. I cannot subscribe to the doctrine that competition will make for better service, when the competition is proposed for territory obviously affording business barely sufficient for the maintenance of a single service.

I recommend the following form of order:

O R D E R

A public hearing having been held in the above entitled proceeding, evidence heard, and an order of submission made, and the Commission being fully advised,

IT IS HEREBY ORDERED that application No. 16966 be, and the same is, hereby denied.

The effective date of this order is hereby declared to be twenty (20) days from the date hereof.

The above opinion and order are hereby approved and adopted as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of May, 1931.

C. C. Seaver  
Leon C. Whittell  
W. B. Lanyon  
J. G. Stebbins  
Commissioners.