

Decision No. 17726.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of
COAST TRUCK LINE, a corporation, for
a certificate of public convenience
and necessity authorizing it to
transport cargo of Los Angeles Steam-
ship Company over the public highways
between San Diego and Wilmington
steamship docks.

Application No. 17726.

ORIGINAL

- H. J. Bischoff, for Applicant.
- C. S. Booth for Los Angeles Steamship Co., Interested Party.
- E. T. Lucey for The Atchison, Topeka & Santa Fe Railway Company, Protestant.
- Libby & Sherwin for Asbury Truck Co., Protestant.
- Edward Stern for Railway Express Agency, Protestant.
- G. C. Foster for Motor Freight Terminal Company, Protestant.

BY THE COMMISSION:

O P I N I O N

Applicant Coast Truck Line herein seeks a certificate of public convenience and necessity to establish service as a common carrier of freight transported by Los Angeles Steamship Company from San Francisco and the San Francisco Bay region to San Diego. Applicant proposes this service on days when the vessels of the Los Angeles Steamship Company discharge freight destined to San Diego at Wilmington, Los Angeles Harbor, only.

A public hearing was held by Examiner Kennedy at Los Angeles, at which time the matter was duly submitted and is now ready for decision.

Los Angeles Steamship Company has for the past ten years maintained service as a carrier of freight by water between San Francisco, Los Angeles and San Diego under tariff lawfully

on file with this Commission. On June 1, 1931, this company's vessel the "Harvard" was wrecked near Point Concepcion.

Temporary arrangements for the transportation of the freight carried by the sister ship "Yale" between Los Angeles and San Diego were made with applicant until such time as regular sailings to San Diego could be resumed. This arrangement continued until October 16th, when this application was filed.

According to C. S. Booth, freight claim agent of the steamship company, the service by ship between Los Angeles and San Diego will only be maintained on weekends, thus omitting any service between these points on Monday, Tuesday, Wednesday and Thursday of each week. In addition to the disruption of its schedule through the loss of the "Harvard" applicant's volume of tonnage declined due to the inauguration of service between San Francisco and Los Angeles Harbor by three additional steamship companies, and the further fact that many foreign or intercostal steamers are now making San Diego a port of call. He testified further that until the general depression in volume is ended no schedules to San Diego, except on weekends, will be offered. The steamship company wishes, however, to preserve its freight traffic destined to San Diego by supplementing its water schedules with truck transportation. This is being accomplished by contract with applicant at a rate of \$4.50 per ton for southbound movement and \$3.50 a ton for northbound movement. The volume of tonnage averages fifteen tons southbound and six tons northbound. The transportation is from dock to dock and upon the arrival and departure times of the former vessel schedules. The movement involves only freight originating at San Francisco or San Francisco Bay points.

Applicant is now in possession of a certificate (Decision No. 16902 on Application No. 11188, dated July 6, 1926) to

transport a limited number of commodities - furnaces, gas appliances, planing mill products, printing presses and printers' supplies, fish, sea foods and berries - between Los Angeles Harbor and San Diego, via Los Angeles. It is maintained by applicant and the steamship company that this limitation of authority both as to commodities and route, should be enlarged so as to include the hauling of general merchandise. The route proposed in the instant application is the shortest land route available between termini.

Applicant proposes rates which are estimated to be the equivalent of what would accrue to a public carrier concurring in a through rate with the water carrier, and are the rates agreed upon by contract.

Atchison, Topeka & Santa Fe Railway protested the granting of the application on the ground that the railroad maintains daily service between Wilmington and San Diego; that it has a belt railway service available to the Los Angeles Steamship Company at both Los Angeles Harbor and San Diego, facilitating loading and unloading at shipside; that, beginning December 1, 1931, the railroad will establish free pickup and delivery service at San Diego. The testimony of W. T. Quirk, Assistant to the General Manager, shows that service to San Diego leaves Wilmington daily at 2:45 p.m., reaching San Diego, via Los Angeles, at 4:00 a.m. the following day. Shipments are on the platform at the rail depot ready for delivery to consignees at 8:00 a.m. From San Diego departure is at 3:15 p.m., reaching Wilmington Harbor at 1:30 a.m., ready for Belt Line switching to the steamship docks. The schedules do not meet the steamer schedules, as do those of applicant, which will operate on exactly the same time as the steamer schedules. Applicant contends that delivery and pickup service to be installed at San Diego by Atchison, Topeka & Santa Fe Railway will

be of no advantage as the Santa Fe Railway placed in operation similar pickup and delivery service for the Los Angeles Steamship Company on November 12th.

No testimony was produced by other protestants and no one is in possession of a certificate to perform the service applicant proposes. Pacific Steamship Company, operating irregularly to San Diego, filed written waiver of opposition.

Applicant was supported by the testimony of C. J. Gamble, General Traffic Manager for a number of San Diego shippers, and P. A. W. Boyle, Traffic Manager of Holzwasser's Department Store. Both testified to large volume received from San Francisco and the desire to patronize the steamship company as in the past, regardless of how delivery was accomplished at San Diego.

After careful consideration of the record it appears that applicant can not conduct the service proposed without a certificate, nor can the steamship company itself conduct such operation between termini without a certificate, and neither applicant nor steamship company can conduct such operation under a valid contract. (In re L. E. Morehart, C.R.C. Vol. 32, pages 64-71; Walkup Drayage and Warehouse Company, C.R.C. Vol. 32, page 246). The transportation circumstances are the same. It appears, therefore, that a certificate should be granted applicant to establish and operate an automotive service for the transportation of the common carrier property consigned over the steamship line, under strict limitations.

While the application is filed on behalf of the Coast Truck Line, the real party in interest is the Los Angeles Steamship Company. As previously stated, this is a substitute service for the regular steamship service between San Francisco and San Diego. The freight will be transported on a marine bill of lading

issued by the Steamship Company. The terms and conditions of that bill of lading differ materially from the terms and conditions of the uniform bill of lading used by other common carriers. The record does not show to what extent shippers will be advised of the method of transporting these shipments. But to avoid any misunderstanding a provision should be incorporated in the tariffs of the Los Angeles Steamship Company, in effect providing that at the option of the Steamship Company traffic between San Francisco and San Diego may be handled via the Coast Truck Line, and in the event it is so handled shippers will be advised accordingly.

Coast Truck Line 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

Coast Truck Line, a corporation, having made application for a certificate of public convenience and necessity to authorize it to transport cargo of Los Angeles Steamship Company over the public highways between San Diego and Wilmington, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of automotive transportation for the transportation of cargoes of Los Angeles Steamship Company between San Diego and

Wilmington (a part of Los Angeles Harbor in the City of Los Angeles), over and along the following route: Via Coast Highway, via Long Beach, Newport Beach, Laguna Beach, Serra and Oceanside; and

IT IS HEREBY ORDERED that a certificate therefor be and the same hereby is granted to applicant, provided that applicant does not transport any property except that originating at San Francisco or San Diego, and consigned over the vessels of Los Angeles Steamship Company at either point, and nowhere else, for transportation, subject to the following conditions:

1. Applicant shall file its 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 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 7th day of December, 1931.

Clarence
Leon
M. J. C.
M. B. K.
Fred G. Stewart
COMMISSIONERS.