

Decision No. 24502 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of JOSEPH F. HEAD doing business as El Monte Truck Line, for a Certificate of Public Convenience and Necessity extending his automotive truck line service to El Capitan Dam Site in San Diego County, California.

Application No. 17878.

ORIGINAL

H. J. Bischoff for Applicant.

BY THE COMMISSION:

O P I N I O N

Joseph F. Head has made application for an extension and enlargement of automotive service for transportation of property between San Diego and points in El Monte Valley east of Lakeside and from Lakeside to said points.

A public hearing was conducted by Examiner Kennedy at San Diego at which time the matter was duly submitted and now is ready for decision.

Applicant now conducts an operation for the transportation of milk and dairy products between San Diego and dairy ranches in El Monte Valley with a terminus approximately five and one-half miles east of Lakeside at the Vannoni ranch, by authority of Decision No. 12241, dated June 21, 1923, on Application No. 9080. The same certificate authorizes unlimited freight service from Lakeside to dairy ranches in El Monte Valley. Applicant proposes to transport all classes of commodities by truck from San Diego to the territory now served by him, and to extend his

service, following El Monte Valley road to El Capitan Dam Site. The particular incentive for the extension of service is the construction work on the El Capitan Dam, a project already begun and which will take several years to complete and will employ approximately 1000 men. Camps are being established and supplies for the workers and material to be used in the construction of the dam will be constantly required at this point. Applicant is now in possession of four vehicles of sufficient capacity to transport any quantities which may be tendered to him and is in a financial position to maintain the service. No service intermediate to San Diego and Lakeside is to be performed.

Applicant proposes rates as set forth in Exhibit "A" attached to his application, subject to rules already filed by him with the Commission and which rates appear reasonable for the service proposed to be performed and consistent with the rules already on file. Applicant proposes daily service except Sunday, leaving San Diego at 9:00 A.M., reaching El Capitan at 12 M., and leaving El Capitan at 5:00 P.M. and reaching San Diego at 8:00 P.M. These schedules accommodate traffic movements as the morning movement is entirely from San Diego and the evening movement is for milk and other property moving to San Diego. Applicant was supported by the testimony of Douglas Young, General Manager of the Qualitee Dairy Products Company of San Diego, Dr. C. F. Proper, Manager of Western Dairy Products, Inc. of San Diego, Henry Vanoni, rancher in El Monte Valley, Robert J. Gardner, Superintendent, Western Metal Supply Company, plumbing and hardware supply house at San Diego; G. W. Gessler, Secretary, Sidney-Mayer Company, machinery, engines and irrigation supplies, Oscar W. Peterson, Sales Manager, Hage's, Ltd., creamery, John B. Wilkinson, Jr., Louis J. Melville and Clarence E. Foster, dairy ranchers, El Monte Valley; Henry T. Lutin, fruit and vegetable business, El Monte Valley, and R. G. Dinlinger, radio business,

El Monte Valley. Each of these witnesses detailed a special need for a transportation service of the character offered by applicant for the commodities which are shipped into the Valley or shipped out.

No one appeared to oppose the application, although carriers affected received due notice. Subsequent to hearing San Diego and Arizona Railway Company, operating steam trains to Lakeside sent in written protest on the ground that "the proper service can be rendered by using rail line to Lakeside, thence coordinating with a truck line between Lakeside and the dam site." Such service is now furnished by applicant, except to dam site and it is the change of carriers at Lakeside that is sought to be avoided by shippers. Although San Diego and Arizona Railway had due notice of the hearing it did not present any testimony to meet the affirmative testimony of applicant.

While the showing of present need in the matter of volume is not great, it is true that applicant is already performing service in the field where he seeks additional rights and the prospective activity at the El Capitan Dam Site together with the affirmative showing made through his witnesses establish a public need for the service.

Joseph E. Head 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

Joseph F. Head having made application to the Railroad Commission for a certificate of public convenience and necessity to extend service authorized by Decision No. 12241, dated June 21, 1923, on Application No. 9080, from its present terminus approximately five and one-half miles east of Lakeside over and along the El Monte Valley road to El Capitan Dam Site, a distance of two miles, and to enlarge his authority to transport all classes of freight between San Diego and El Monte Valley points and between Lakeside and El Capitan Dam and intermediate points in El Monte Valley, and to dairy ranches in El Monte Valley, 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 truck service for the transportation of all commodities between San Diego and El Capitan Dam Site, serving Lakeside and all points east thereof, but transporting no property between San Diego and Lakeside or points intermediate and serving dairy ranches in the El Monte Valley east of Lakeside over and along the following route:

From San Diego via County and State Highways to Lakeside, thence via El Monte Valley road to El Capitan Dam Site and five (5) miles on either side of the highway traversed between Lakeside and El Capitan Dam Site.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within fifteen (15) days after date hereof together with a stipulation that the same is an extension and enlargement of the rights granted by Decision No. 12241, dated June 21, 1923, on Application No. 9080, and not as a new or separate right.

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 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 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 23rd day of February, 1932.

Al Seaver
Leon Whitely
M. J. Van
M. B. Harris
Frederic H. Stewart
Commissioners.