

Decision No. 25500

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
GEORGE CAVAGNARO, doing business under
the fictitious name and style of
GEORGE CAVAGNARO AND SON, for certifi-
cate of public convenience and necessity
to operate an auto truck service for
the transportation of freight, goods,
and merchandise as a common carrier between
Mountain View, Palo Alto, United States
Dirigible Base at Sunnyvale, and San
Francisco for an extension of weight limit.

ORIGINAL

Application
No. 18738

Harold Brown and James A. Toner, by Harold Brown,
for applicant.
Orla St. Clair and Guy Hill for Pacific Greyhound
Lines and Railway Express Agency, Inc.
A. L. Whittle and H. W. Hobbs for Railway Express
Agency, Inc., Pacific Motor Transport Co. and
Southern Pacific Company.
C. S. Mc Lenegan for Pioneer Express Co. and
Intercity Transport Lines.

BY THE COMMISSION -

O P I N I O N

George Cavagnaro, who operated a small truck transportation service business of a unique character between Mountain View and San Francisco, was granted a certificate of public convenience and necessity on December 5, 1932, sanctioning a continuance of said business which had been established for many years prior thereto. (Decision No.25425).

Following said decision on February 28, 1933, the said applicant filed a new application with this Commission, asking for a modification of Decision No.25425 granted under his Application No.18527, and also applicant asked for an extension of the service called for by said application and decision.

A new hearing on this matter was held by Examiner Johnson on April 12, 1933, at Palo Alto, and the matter was submitted as of that date.

The real purpose of the present application is stated succinctly in the prayer of applicant's petition, viz: to carry on his business as a common carrier and messenger without weight limitation of the carriage of goods between Mountain View and San Francisco, and that the present weight limitation of 100 pounds per single package be removed and extinguished. Secondly, that this proposed service be extended to the City of Palo Alto without weight limit, and thirdly, that this proposed service be extended to the United States Dirigible Base at Sunnyvale without weight limitation.

Inasmuch as the record in this case was considerably shortened by stipulation and a consideration of the proof in the previous application referred to, it may be well to go over our Decision No. 25425 in justification of the foundation for the order hereinafter made.

"The record leaves no doubt that the business conducted by Cavagnaro and which he desires to have certificated is a real convenience to the merchants of Mountain View, nearly all of whom are numbered among Cavagnaro's patrons, and a large number of whom appeared at the hearing and testified to the convenience and necessity of the service. The real question here is whether or not this service is such a necessity as to justify its certification. Just where convenience merges into necessity is always a nice question and one difficult of determination. A too rigid delimitation of what constitutes necessity would, of course, stop any program in the development of means of transportation. What at first is a convenience, in time becomes a necessity. Business methods gradually build up about a convenient service and acquire a fixity, so that its continuance becomes in effect a necessity.

Cavagnaro's business now grosses annually about \$2,200. The evidence indicates that it has about reached its limit of growth. At most, it means a very modest livelihood for Cavagnaro and his family, it appearing that his son helps him with the business and sometimes drives his truck. The personal service feature is not of sufficient volume or extent to justify the time of a man like Cavagnaro. The same is true of the transportation feature. Combined, they do. While some of the protesting carriers claimed they were giving, in part, the personal service rendered by Cavagnaro, their offers of such service do not seem to have met a favorable response among the merchants who testified that they were unable to duplicate from any of the carriers the kind of service they received from Cavagnaro."

It was testified to at this hearing that applicant had not previously made clear to the Commission that the carriage of many of his packages or parcels was in excess of the 100 pound limit previously placed by this Commission upon his operations. In other words, applicant testified that he was frequently called upon to carry articles of hardware weighing from 106 to 112 pounds, refrigerators weighing from 150 to 600 pounds, radios in excess of 100 pound parcels, and automobile parts in excess of such limit. This testimony of applicant was corroborated by his other witnesses at the hearing.

While several protestants were represented at the hearing, they all agreed to stipulate that this applicant would dismiss his application herein and, except as to placing a limitation of 100 pounds on his weight limit, all protests would be withdrawn. It was therefore stipulated between all of the parties represented at the hearing that all propositions to extend this Cavagnaro personal service to Palo Alto and to Sunnyvale Air Base will be dropped for a period of at least a year, provided that the protestants would withdraw their objections to any amendment or increase of the weight limit to 500 pounds, and that applicant conform in his rates to the rates of existing carriers through Mountain View.

It was further testified by applicant that his gross business under the decision of December 5, 1932, would probably not exceed \$900. for the year 1933 and that he would, therefore, have to discontinue such personal service and transportation business if the present weight limit were not extended.

O R D E R

A public hearing having been held in the above entitled matter and having been duly submitted for decision,

IT IS HEREBY ORDERED that Decision No.25425, on Application No.18527, be amended by striking therefrom the words "100 pounds per package" and substituting in lieu thereof the words "500 pounds per package."

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

Dated at San Francisco, California, this 4th day of April, 1933.

C. L. Seamy
Leon Ashberry
W. A. Curran
W. B. Harris
W. H. [unclear]
COMMISSIONERS.