

Decision No. 10065

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of PAUL GATTO for certificate of public convenience and necessity to operate a contract motor service between ranches in the vicinity of Half Moon Bay, California, and San Francisco, California.

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) Application No. 7440  
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In the Matter of the Application of ERNEST DEL CIELO for certificate of public convenience and necessity to operate freight service between Pedro Valley and Colma and San Francisco.

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) Application No. 7468  
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B. F. McKibben for Paul Gatto, applicant  
Harry A. Encell for Ernest Del Cielo, applicant  
Neal Forrest for Red Star Stage Line, Protestant  
J. J. Bullock for Green & Green, Protestants.

BY THE COMMISSION,

O P I N I O N

In Application No. 7440 Paul Gatto petitions the Railroad Commission for a certificate declaring that public convenience and necessity require the operation of an automobile truck line as a contract carrier of vegetables between certain ranches in the vicinity of Half Moon Bay and San Francisco.

In Application No. 7468 Ernest Del Cielo petitions the Railroad Commission for a certificate declaring that public convenience and necessity require the operation of an automobile truck line for the transportation of freight between Pedro Valley and Colma and San Francisco. Neither of the applicants herein have applied for or expect to haul any commodities between San Francisco and Pedro Valley or Half Moon Bay other than the return of empty crates for which no charge will be made.

By stipulation of counsel both applications were consolidated for hearing, the testimony as to the public necessity for the service to apply to both. A public hearing was held before Examiner Satterwhite on Saturday, January 14, 1922, at San Francisco, California, at which time both proceedings were submitted and the matters are now ready for decision.

Applicant Paul Gatto testifying in his own behalf stated that he had contracts with certain firms in the City of San Francisco under which he proposed to purchase fertilizer and transport the same by truck to ranches in the vicinity of Half Moon Bay and to operate in connection therewith a second truck for the purpose of hauling the products from such ranches to San Francisco over what is known as the "Crystal Lakes Road" and the state highway via San Mateo. Insofar as the transportation of fertilizer from San Francisco to Half Moon Bay District is concerned, applicant purchases such commodity in San Francisco and transports same as owner to the Half Moon Bay District for sale, and is not transporting such property for compensation, and therefore, no certificate would be required for the purpose of performing such a service. This applicant testified to the effect that he had secured some seven contracts from ranches in the Half Moon Bay District under which contracts the ranches would purchase fertilizer from him and he in return would transport the products of their ranches from the Half Moon Bay District to San Francisco. Inasmuch as protestants Green and Green do not operate as far south as Half Moon Bay, they withdrew any protest to the granting of this application.

The Red Star Stage Line, serving this territory, while entering a protest, submitted no testimony whatsoever as to their ability to handle heavy shipments from this District to San Francisco. There was submitted in evidence an exhibit heretofore filed in connection with the application of the Ocean Shore Railway for permission to abandon service. This exhibit contained a survey of tonnage hauled from various points on the Ocean Shore Railway from

Tunitas north over what is known as the "Coast Route" to San Francisco. The exhibit shows the following tonnage hauled northward from Half Moon Bay only during the year 1919:

Artichokes	-	2,093 tons
Other green vegetables	-	1,596 "
Grain, beans, fruit etc.	Approximately	<u>1,500</u> "
Total	-	6,189 tons

Since the abandonment of the Ocean Shore Railway, ranchers in the Half Moon Bay District have been obliged to either purchase trucks for the purpose of hauling their heavy tonnage to rail points or depend upon so-called "wild-cat operators", namely individuals operating trucks more or less periodically over a regular route between fixed termini without first securing a certificate of public convenience and necessity as required under the provisions of Chapter 213, Statutes of 1917, as amended. The Red Star Stage Line and the Coastside Transportation Company both operate a passenger and freight service between San Francisco, Half Moon Bay and Pescadero, but neither of these companies maintain sufficient truck tonnage to handle the heavy crop movement during the shipping season of the year.

Applicant Gatto has applied for a certificate to operate only as a contract hauler of vegetables from some seven or eight ranches in the Half Moon Bay District to San Francisco. In previous decisions this Commission has expressed the opinion that the establishment of a so-called contract hauler is not in the public interest in that such a transportation concern may then limit its service to such shippers as it desires to contract with. The establishment of such a class of haulers would permit an operator to contract and haul only for the larger and more profitable shippers in a given district and would permit him to refuse to contract or refuse to accept shipments from the smaller and less profitable shippers. If this service is established, it is our belief that

a certificate should be granted to applicant Paul Gatto as a common carrier of vegetables and other farm products from the Half Moon Bay District to San Francisco and not as a so-called "limited contract hauler", which would permit only the hauling of such shipments as he may desire to contract for.

Applicant Ernest Del Cielo proposes to operate two new 2½-ton Fageol trucks and such additional equipment as traffic conditions require for the purpose of transporting artichokes and other perishable farm products from what is known as the "Pedro Valley" to Colma and San Francisco. He does not propose to transport any commodities whatsoever from San Francisco or Colma to the Pedro Valley, but merely to use his trucks for the purpose of returning empty crates and boxes to the ranches, there being no charge for such service.

The territory proposed to be served by this applicant is at the present time receiving service from Green and Green, Red Star Stage Line and the Coastside Transportation Company. Green and Green, however, are the only operators in this territory suitably equipped to transport heavy tonnage of ranch products and are the only transportation company at the present time devoting their efforts solely to this class of transportation service. Protestants heretofore operated two trucks in this service, but testified to the fact that they have recently purchased additional trucks and now have available four heavy duty trucks and are able to handle all tonnage offered between Pedro Valley and points north thereof to Colma and San Francisco.

From the evidence submitted in this proceeding, it would appear that there are some 4532 tons of artichokes, other green vegetables, grain, beans, etc. moving from the Pedro Valley District and points north thereof to Colma and San Francisco for shipment by rail; that heretofore there has been operating in this territory an unlicensed carrier doing business under the fictitious name of City Auto Express; that the business of such carrier has been taken over by applicant Del Cielo, who becoming aware that a certificate

was necessary to engage in such business has filed the present application so that he may legally continue to operate over the same territory as that heretofore served by the City Auto Express without a certificate as required under the provisions of Chapter 213, Statutes of 1917, as amended.

Several witnesses testifying in behalf of this applicant stated that no one carrier had sufficient equipment to handle the tonnage moved from the points herein proposed to be served during the heavy shipping season; that while existing operators could adequately care for normal amount of business when there was no heavy crop, movement, public necessity required, when the crop season was at its height, that sufficient equipment be available to transport such crops to rail points due to their perishable nature and the resultant loss to the ranchers if they are not promptly moved for rail shipment.

While this Commission does not look with favor upon the granting of an application which will enable a truck operator to enter a given field in competition with existing operators, who are able to render a satisfactory service and adequately care for the needs of the shipping public during a good part of the year, we cannot escape the fact that in heavy crop producing centers, which have no rail service there are periods during the year when traffic tonnage reaches a peak which no average truck transportation company is able to handle adequately. This is particularly true when such crops are of a perishable nature and must be moved to rail shipping points and we are of the opinion that the ranchers in such a territory are entitled to receive such service as their demand might reasonably require.

The Pedro Valley and Half Moon Bay District are at the present time unfortunately situated in that this territory was originally built up and developed through the construction and operation of a railroad from San Francisco south following what is

known as the "Coast Route". Service on this railroad was abandoned several years ago and the only facilities which ranchers in this territory now have for marketing their crops are transportation by truck from their ranches to either San Mateo, Colma or San Francisco, where such commodities are loaded on cars for shipment by rail to eastern markets.

Of the three freight operators serving this territory at the present time all of which received notice of the hearing in this proceeding, only one put in any actual evidence with reference to their present service and if it were not for crop movement the three operators in question, namely, Green and Green, Red Star Stage Line and the Coastside Transportation Company would be sufficient to handle the general freight movement. The heavy tonnage moving during the crop shipping season, however, has led to the establishment of a number of unlicensed truck operators in this territory and we believe that to adequately care for this business, the establishment of service as herein proposed should be authorized.

After consideration of all the evidence, we are of the opinion that the application of Del Cielo should be granted provided that such application is limited strictly to his operation as a common carrier of perishable farm products from Pedro Valley to Colma and San Francisco with no return haul whatsoever other than the return of empty crates and boxes to shippers for whom he has transported perishable products to rail points or to San Francisco commission houses.

#### ORDER

A hearing having been held on the above entitled matters, evidence having been submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY

DECLARES that public convenience and necessity require the operation by Paul Gatto of an automobile truck line as a common carrier of vegetables and other perishable farm products from the Half Moon Bay District to Colma and San Francisco via the Crystal Lakes road and San Mateo, but not serving San Mateo as an intermediate point, subject to the conditions hereinafter set out.

THE RAILROAD COMMISSION HEREBY FURTHER DECLARES that public convenience and necessity require the operation by Ernest Del Cielo of an automobile truck line as a common carrier of perishable vegetables and farm products between Pedro Valley and Colma and San Francisco subject to the conditions hereinafter set out:

1. That neither applicants herein shall accept or transport any freight whatsoever from San Francisco or Colma to Pedro Valley or Half Moon Bay, except empty boxes and crates which will be returned to shippers free of charge, and

IT IS HEREBY ORDERED that applicants Paul Gatto and Ernest Del Cielo shall file within a period of not to exceed ten days from date hereof their written acceptance of the certificates herein granted and shall file within a period of not to exceed thirty days from date hereof tariff of rates and time schedules, in duplicate, such tariff of rates and time schedules to be substantially the same as those quoted in Exhibits "A" and "B" attached to their respective applications and that both of such applicants shall commence service within a period of not to exceed thirty days from date hereof.

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.

No vehicle may be operated by the applicants Paul Gatto and Ernest Del Cielo unless such vehicle is owned by such applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 8<sup>th</sup> day of February, 1922 .

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COMMISSIONERS