

Decision No. 10773

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of M. D. SAVAGE and L. ROTTANZI, doing business under the name of MARIN TRANSPORTATION COMPANY, for a certificate of public convenience and necessity to operate an automobile freight service between the city and county of San Francisco and points in Marin County, California.

Application No. 7444.

ORIGINAL

J. E. McCurdy for Applicants.  
Sanborn & Roehl, by Arthur Roehl,  
for San Rafael Freight & Transfer Company, Protestant.  
R. W. Palmer for Northwestern Pacific  
Railroad Company, Protestant.  
E. Stern for American Railway Express  
Company, Protestant.

BY THE COMMISSION.

O P I N I O N

Public hearings were held by Examiner Westover at San Francisco, three days, upon the above entitled application for authority to operate an automotive milk truck service between Pier 17, San Francisco, and sixteen dairies in Marin County, located, respectively, at or near Novato, Ignacio, Galinas, San Rafael, Green Brae, Corte Madera, Alto, and Manzanita.

All of the points above referred to are served by the Northwestern Pacific Railroad Company and the American Railway Express Company by frequent train service, there being close scheduled connection by trains with the railroad company's ferry boats plying between Sausalito and San Francisco. The dairies ship milk to San Francisco in the early morning and late after-

noon, two trains being assigned to milk service upon schedules arranged to meet the convenience of milk shippers, after conference with them, and requiring 1-2/3 hours from Novato. Milk and cream, however, are carried on all passenger trains. If a shipment does not reach the station in time for the designated train, it is picked up by the next following train, or, in many instances, by special equipment sent out for the purpose. As the ferry boats operate at half hour intervals night and morning, there is little occasion for delay at Sausalito, even if a boat connection is missed. Most of the shippers produced testified that the service was satisfactory, although there was some testimony describing occasional delays.

Of the eight points which applicant proposes to serve, four are served by San Rafael Freight & Transfer Company, a co-partnership composed of A. H. Marx and R. H. Clarke. They and three associates have incorporated under the same name, with the plan of transferring to the corporation their trucking equipment and operative rights. The corporation now owns a small power boat which they operate between Sausalito, where they own a dock constructed on leased ground, and San Francisco, San Rafael and San Quentin. It has warehouse and necessary terminal facilities at Sausalito, San Quentin and San Rafael, terminal facilities at San Francisco, and has plans and estimates for a second boat. It has the use of seven trucks, title to most of which is in Mr. Marx, and at the time of investigating the milk and dairy situation, hereinafter referred to, expected to procure additional trucks, arrange special schedules to meet the needs of such service, and apply for authority to serve the dairies at the above points on or near their line.

The circumstances leading up to the filing of the application appear to be as follows:

The San Rafael Freight & Transfer Company some time ago decided to make a thorough investigation as to the possibilities of developing a milk and cream hauling business. It, therefore, employed a Mr. Bonzani to call upon the dairymen to discuss their transportation needs and service. His compensation, upon his insistence, was to consist of his expenses; further compensation for his service to be determined solely by his employers after the service had been rendered, though they urged a preliminary, definite arrangement. He and Captain Clarke, one of the partners, first called upon milk shippers, and later Mr. Bonzani from time to time reported the progress he was making and suggested certain changes in a proposed contract with milk shippers which the partnership attorney was drawing, forms of which were later delivered to Mr. Bonzani for execution by shippers. The reports of Mr. Bonzani appearing to the partners to be favorable to the establishment of the milk service, the partners desired to find a man experienced in transportation of milk to handle that feature of the business. Mr. Savage, one of the applicants, being recommended, was communicated with and agreed to come and look over the milk business which Mr. Bonzani was engaged in working up, and to submit recommendations or a proposition. Accordingly, Mr. Savage and Mr. Bonzani went over the territory in the partnership automobile to have signed final drafts of the proposed contracts. They returned with the contracts executed, but in the name of Marin Transportation Company, the fictitious name of applicants herein. The partners thereupon refused to further negotiate in reference to the matter. Mr. Bonzani was not produced, nor his absence accounted for.

Applicants leased ground at Sausalito, built a wharf, contracted for the service of the steam schooner "Islander" to

transport a minimum of 23 tons daily between Sausalito and San Francisco, built 8 loading platforms along the highway, and began transporting milk by truck and boat without the authority of the Commission for such service. The operation continued three days in December, when it was discontinued. During this period, the "Islander" was laid up for repairs and made but one of the six required trips, the milk on the other trips being transported by the railroad company's ferry boats. It is proposed to operate on 2 daily schedules, each requiring 3 hours from Novato to San Francisco, using 3 trucks, being purchased under lease contracts.

Three of the 19 shippers testified; the first to the effect that he would prefer rail service if he could ship from Reed, a station on his ranch, as he did before service on the Tiburon branch was changed, as he now has to haul  $2\frac{1}{2}$  miles to Alto; a second, to the effect that it is hard to decide which service is better for him, since he would have to haul to the highway, even with truck service; while the third preferred truck service because it would save hauling.

It is apparent from what has been said that public necessity and convenience do not require that the proposed service be rendered by these applicants. It also does not appear that present carriers are unable or unwilling to provide all service needed, and until that appears there is no occasion to consider the claims of other applicants; indeed, it appears that the present truck line contemplated making the above application, but that applicant Savage took the proposed contracts in the name of his organization rather than of the present truck line.

#### ORDER

A public hearing having been held in the above entitled

application, the matter being submitted, and now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public necessity and convenience do not require the operation by M. D. Savage and L. Rottanzi, under the name of Marin Transportation Company, or otherwise, of an automobile freight service for the transportation of milk and dairy products between San Francisco and dairies at or near Novato, Ignacio, Galinas, San Rafael, Green Brae, Corte Madera, Alto, and Manzanita.

IT IS HEREBY ORDERED that the application be and it is hereby denied.

Dated at San Francisco, California, this 1<sup>st</sup> day  
~~of March,~~ <sup>April</sup> 1922.

H. B. Brundage

James Martin  
Charles H. Hoovee

J. B. Pennington

Commissioners.