

Decision No. 10672

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of
 R. H. CLARKE AND F. O. GARRETT, co-
 partners, doing business under the
 fictitious name of "Oakland-San Rafael
 Express Company," for certificate of
 public convenience and necessity to
 operate an auto truck line for the
 transportation of property, for com-
 pensation, between Oakland and San
 Rafael, California, and between Oakland
 and Ignacio, California, via Point
 Richmond and Richmond-San Rafael Ferry.)

Application No. 7607.

- A. B. Roehl for applicants.
 R. W. Palmer for Northwestern Pacific Railroad Company,
 protestant.
 D. Geary of Geary & Geary, for Petaluma & Santa Rosa
 Railroad Company, protestant.
 Edward Stern, for American Railway Express Company,
 protestant.
 E. W. Hollingsworth and G. A. Bahler for Traffic Bureau
 of Oakland Chamber of Commerce, protestant.
 L. N. Bradshaw for Southern Pacific Company.
 E. H. Maggard for Petaluma & Santa Rosa Railroad Company.
 W. R. Rutherford for City of Santa Rosa.
 James Stafford, Walter E. Nagle and E. A. Jackson for
 Chamber of Commerce of Santa Rosa.
 Frank J. Burk for City of Petaluma.
 S. S. Knight for the Chamber of Commerce of Petaluma
 and various other organizations.

BY THE COMMISSION.

O P I N I O N

Public hearings were held by Examiner Westover at Oakland and San Rafael upon the above entitled application to operate an automotive truck service as a common carrier of freight between Oakland and San Rafael, and of milk in cans between Ignacio and Oakland, all via the Richmond-San Rafael ferry. By amended application, filed by leave during the hearings, applicants seek authority to include Berkeley and Richmond in the milk service, and to transport freight in general between San Rafael and San Quentin on the one hand, and Oakland, Berkeley, and Richmond on the other hand, but do not desire to transport freight locally between points west of the bay or locally between points east of the bay.

It appears that there are no common carriers operating at present over the route in question. However, the terminals of Ignacio, San Rafael and Oakland are served by two routes - one, the Northwestern Pacific Railroad and ferry boats between Sausalito and San Francisco, and Southern Pacific ferry boats between San Francisco and Oakland; and the other route, by the two railroads via Schellville and Vallejo Junction and the Vallejo ferry. American Railway Express Company operates over these rail and boat lines.

Concerning the proposed milk service, it appears from the testimony that milk does not move to Oakland via either of the above routes, and that all of the milk now produced in Marin County is marketed or distributed in San Francisco, except that a group of three dairies near Ignacio, which applicants propose to serve, since the first of the year have been shipping 68 to 78 cans of milk per day to the South Berkeley Creamery, which latter operates a truck for the purpose, charging a rate of 35 cents per 10-gallon can, which is the rate proposed by applicants.

Applicants propose to pick up the milk at points on the highway near the dairies, shortly after the afternoon milking, connect with the ferry boat leaving San Quentin at 6:15, and deliver to the creamery before 8:00 P.M. The milk is pre-cooled at the dairies before shipping, and is pasteurized after arrival and before local distribution of the milk the following morning. It sufficiently appears from expert testimony that milk thus handled reaches the consumer in more healthful condition than if it were handled a number of times in being transferred from trucks, platforms, trains and wheeled trucks, with more opportunity for the milk to stand in the sun while awaiting the arrival of trains.

The proposed service also includes a pick-up and delivery, which is not furnished by the railroad or express company, which latter charges rates of 24 and 25 cents per 10-gallon can between stations.

Concerning the transportation of general freight between San Rafael and San Quentin on the one hand, and east-bay points on the other, it appears that there is at present no public carrier operating directly between these points, but that shipments from San Rafael to Richmond, for illustration, a distance of approximately 12 miles via the Richmond-San Rafael ferry, must travel a distance of approximately 32 miles when routed via Sausalito and San Francisco, or 55.4 miles when routed via Schellville and Vallejo Junction.

It appears from the testimony that there is considerable business dealing between the communities proposed to be served, particularly Oakland and San Rafael and considerable freight moved between these points, and that in some instances Oakland business houses have ceased trying to sell and distribute goods in and about San Rafael, and that one house has ceased sending its traveling representative to San Rafael because of delay in transporting shipments between these points as compared with shipments originating with San Francisco wholesale houses.

Applicants further showed that they expected considerable interchange of freight at San Rafael with the San Rafael Freight & Transfer Company, a truck line in which Captain Clarke (one of the present applicants) is joint owner with A. H. Marx. This freight moves to and from points north of San Rafael, but principally to and from Petaluma and Santa Rosa. This testimony was admitted over the objection of protestants, Petaluma & Santa Rosa Railway Company and

Northwestern Pacific Railroad Company, who objected that it was not within the issue presented by the application, as it involved territory beyond that proposed to be served and would eventually result in the two lines seeking to establish a through service and joint rates. The testimony was admitted solely as bearing on the amount of freight to be moved between San Rafael and east-bay points.

At the urgent request of the protestants an adjourned hearing was held at San Rafael to permit the presentation of testimony relating to the territory between San Rafael and Santa Rosa, at which latter hearing the Southern Pacific Company entered an appearance as protestant because of its Sonoma Valley line serving Santa Rosa and east-bay points via Vallejo Junction. It developed during the hearing that such through route and joint rates are contemplated by the respective track lines, they considering that they are obliged to furnish such service under Section 22 of the Public Utilities Act, effective March 23, 1912, although there is no similar provision in the Act providing for the supervision and regulation of "automotive transportation companies," Chapter 213, Statutes of 1917, as amended by Chapter 280, Statutes of 1919.

Under Section 33 of the Public Utilities Act, the Commission has power to order the establishment of a through route and a joint rate after hearing, where it finds that the rates in force over two or more common carriers between

any two points are unjust, unreasonable or excessive, and that the public convenience and necessity demand the establishment of such through route and joint rate. No such showing was made herein, and the question is not raised by the application. In this instance no such action by the interested parties should be attempted without previous authority of the Commission.

At the adjourned hearing, the Petaluma & Santa Rosa Railroad Company presented considerable testimony to the general effect that its service by rail between Petaluma and Santa Rosa, and by water between Petaluma and San Francisco and Oakland, is entirely satisfactory and that the communities involved consider that a competing line would be detrimental to the interests of shippers through reducing the ability of the present carrier to serve their needs. It also showed that it serves Oakland in connection with boats and barges of the Bay Cities Transportation Company, and that by this means it affords an over night service between Oakland and Petaluma - a fact apparently not generally known to Oakland shippers wishing to send goods to Petaluma, Santa Rosa, and intermediate points on this carrier's lines. Under present schedules, shipments may leave Oakland at 12 noon, arrive at Petaluma at 11:00 P.M., and at Santa Rosa at 7:00 A.M. the following morning; or leave Santa Rosa at 5:00 P.M., Petaluma at 6:00 P.M., and arrive at Oakland at 1:00 P.M. the following day.

The testimony presented by applicants justifies the granting of the application, with the understanding that the service proposed by applicants is to be strictly limited to points mentioned in the application.

A further hearing in the matter was held upon the initiative of the Commission because of information which it received to the effect that applicants had been operating regularly all of the year 1922 without previous authority. It developed at the hearing that although a truck driver was employed by applicants to operate their truck in the regular hauling of milk between the dairies near Ignacio and the South Berkeley Creamery, and the driver's wages were paid by them as well as bills for oil, gas, ferry tolls, and other operating costs, this was done at the special instance and request of the manager of the South Berkeley Creamery, who had individually hired applicant's truck for a period of four months, beginning January 1, 1922, at a rental of \$7.00 per day; and was done as a matter of convenience in accounting, the applicants being reimbursed for all such outlays.

O R D E R

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision,

THE RAILROAD COMMISSION HEREBY CERTIFIES that public convenience and necessity require the operation by R. H. Clarke and F. O. Garrett, co-partners, doing business under the fictitious name of "Oakland-San Rafael Express Company," of an automotive truck line for the common carriage of milk in cans

between Ignacio and dairies in the vicinity of Ignacio on the one hand, and Oakland, Berkeley, and Richmond on the other hand, via San Rafael, Richmond-San Rafael Ferry, and Point Richmond; and for the common carriage of freight, in general, between San Rafael and San Quentin on the one hand and Richmond, Berkeley, and Oakland on the other hand, via Richmond-San Rafael Ferry and Point Richmond.

This certificate is granted subject to the following conditions:

1. Nothing herein contained shall be construed as authorizing the transportation of milk or other freight between points other than those above mentioned, by the establishment of joint rates and through routes or otherwise.

2. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

3. No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

4. IT IS HEREBY ORDERED that applicants shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

5. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this 7th day of

July, 1922.

W. B. Brundage
Charles H. Rowell
W. B. Brundage
Commissioners.