

Decision No. 11077

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of R. W. RASMUSSEN for certificate of public convenience and necessity to establish automobile freight service as a common carrier of freight between Oakland, Morgan Hill, Gilroy, San Juan and Hollister, eliminating all service between Oakland and San Jose, California, and Hollister and intermediate points.

Application No. 7660.

Gwyn H. Baker, for applicant.

L. N. Bradshaw, for Southern Pacific Company.

Edward Stern, for American Railway Express Company.

BY THE COMMISSION:

OPINION

R. W. Rasmussen has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck line as a common carrier of freight and express between Oakland and Morgan Hill, Gilroy, San Juan, and Hollister, eliminating all service between Oakland and San Jose; also for truck service between San Jose and Hollister and intermediate points.

Public hearings on this application were conducted by Examiner Satterwhite at San Francisco and Hollister. The matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates and to operate on a time schedule in accordance with amended Exhibits A and B, attached to said application, using as equipment that which

is described in the application and any further equipment necessary.

The Southern Pacific Company and the American Railway Express Company protested the granting of this application.

Applicant testified in his own behalf and called other witnesses in support of his application.

The testimony shows that applicant is the owner of a two-ton automobile truck which is now under written lease to the American Creamery Company, by the terms of which this company has the sole and exclusive use thereof during four days of each week, for the purpose of transporting to Oakland primarily eggs and poultry purchased direct from poultrymen in and in the vicinity of Hollister. Applicant, since January 1, 1922, has driven this truck and acted as buyer for the American Creamery Company in the Hollister district.

The record shows that most of the tonnage to be transported under this proposed service will consist of eggs and poultry purchased by the American Creamery Company, together with the back haul of empty cases. Applicant testified to the effect that in his opinion, by solicitation, he could secure for transportation some fruits and butter and probably some cream and milk along the proposed route.

It appears that there are about fifty egg and poultry producers in and about Hollister, only two of whom appeared at the hearing and endorsed this proposed service, and each of these witnesses admitted that they were selling their eggs direct to the American Creamery Company. Most of these producers sell direct to buyers at Hollister and the American Creamery Company is one of the chief and largest purchasers. The assistant manager of the American Creamery Company testi-

fied that his company had no need for or any interest at all in this proposed truck service and that his present transportation arrangements were entirely satisfactory and adequate.

As regards intermediate service, one merchant at San Juan favored this truck line on the basis that he could obtain butter as well as some fruit and vegetables from Oakland, although all his other supplies for his general merchandise store were purchased mainly from San Jose and delivered direct by truck.

Applicant offered some testimony to the effect that complaint had been made by several poultry producers that the breakage of eggs by the rail carriers was such that they preferred a truck service, but it was shown in this connection by the protesting rail carriers that the general cause of breakage was over-size eggs and that five per cent was always allowed for breakage.

The Southern Pacific Company and the American Railway Express Company, protesting rail carriers, offered in evidence their rate and time schedules and oral testimony as to the adequacy of their respective services.

The American Railway Express also offered exhibits showing respectively the various passenger trains which handle express matter between Oakland and Hollister and the points proposed to be served by said applicant, as well as a comparison of the present charges of the express company with those of the proposed truck service. A study of the exhibits of this protestant indicates that the train facilities are ample to meet the volume of traffic now moving between the points to be served.

The Southern Pacific Company also offered in evidence exhibits showing the l.-c. l. freight moving between Oak-

land and San Jose and the other points proposed to be served, during the year 1921 and for a portion of the year 1922, as well as a comparison of rates on Classes 1 to 4 inclusive, between the points to be served by the applicant. These exhibits show that the volume of freight moving between the points embraced in said application is small in volume.

We have carefully considered all the evidence in this case and are of the opinion and find as a fact that public convenience and necessity do not require the proposed service of applicant, and the application should be denied.

ORDER

Public hearings having been held upon the above entitled application, the matter being submitted and now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by R. W. Rasmussen of an automobile truck line as a common carrier of freight and express between Oakland and Morgan Hill, Gilroy, San Juan, and Hollister, and for truck service between San Jose and Hollister and intermediate points, and

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

Dated at San Francisco, California, this 26th day of September, 1922.

H. B. Rounding
Waring Martin
J. F. Benedict

Commissioners.