

Decision No. 11118

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of  
JOE JOAQUIN and GEO. COSTA for  
certificate of public convenience and  
necessity to operate auto trucks freight  
service between Alviso and San Francisco,  
California.

: Application No. 8154

Norman E. Malcolm for Applicants.  
B. Anixter for Riverdale Creamery Co. Protestant  
Frank B. Austin for Southern Pacific Co. Protestant  
C. K. Harper for Highway Transport Co. Protestant

BY THE COMMISSION,

O P I N I O N

Joe Joaquin and Geo. Costa, co-partners, filed an application with the Railroad Commission in which they petition for a certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of milk between Alviso and Mt. View and farms in the vicinity thereof to San Francisco.

A public hearing in the above entitled proceeding was held before Examiner Satterwhite on September 21st, 1922, at San Francisco, California, at which time the matter was submitted and it is now ready for decision.

The granting of the application as herein proposed was protested by the Riverdale Creamery Company, Southern Pacific Company and the Highway Transport Company. The Southern Pacific Company withdrew with the understanding that the service herein proposed would be operated, should the certificate be granted, over the peninsula highway only and would at no time be operated over the bay ferries of the Southern Pacific Company. The protest of the Highway Transport Company was withdrawn when it was shown that applicants propose to handle milk only and that

no other commodities would be transported either north bound or south bound, other than the return of empty cans from creameries in San Francisco to dairy ranches.

The evidence herein showed that applicants propose to operate two round trips per day and that at the present time they have the promise of eleven dairies who have agreed to ship their milk by their trucks. All of said dairies are at the present time being served by the Riverdale Creamery Company. Applicants testified that they propose to operate their trucks so as to save four of the dairy ranches the necessity of hauling their milk from the ranches to the road side where it is picked up by the Riverdale Creamery Company's trucks. Applicants also propose a rate of 22 cents per ten gallon can as against 28 cents per ten gallon can as now charged by the Riverdale Creamery.

One of the co-partners herein is now engaged in the operation of a dairy ranch, being one of the ranches proposed to be served by applicants herein. It was the opinion of applicants that service could be rendered at a profit at a rate of 22 cents per ten gallon can instead of the 28 cent rate at present charged.

It appears that no public necessity exists for the service as proposed by applicants, their main ground for the issuance of the certificate as applied for, being the lower rate under which they propose to operate. The Commission has held on a number of occasions that the law requires that a showing of public convenience and necessity must be made by applicant for a certificate and that a certificate could not be granted solely upon the ground that applicant proposes a rate lower than that charged by existing carriers.

If the rates charged by existing carriers are considered excessive, any one may, at any time, complain to the Rail-

road Commission petitioning for an order establishing just and reasonable rates for the service rendered. If certificates were granted by this Commission solely upon the proposal to render service at a lower rate, the holder of a certificate, in the event his proposed rates should prove non-compensatory, could at any time file application to secure an increase in rates. Such action, if not taken, would ultimately result in the abandonment of service entirely or an inadequate and inefficient service and the weakening of the existing carriers who properly care for the traffic requirements.

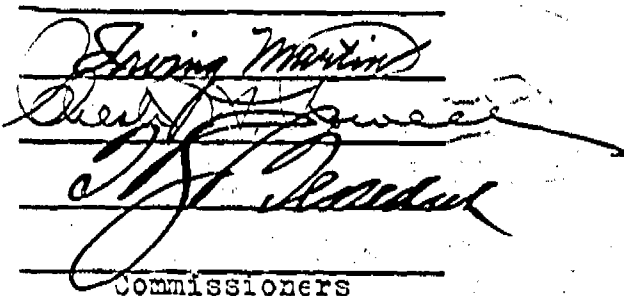
We are of the opinion that no showing has been made in this proceeding justifying the granting of the application and an order will be entered accordingly.

#### O R D E R

A public hearing having been held, evidence submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is denied.

Dated at San Francisco, California, this 18<sup>th</sup> day of October, 1922.

  
Commissioners