

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of  
M. S. Cunha, J. P. Cunha and F. J.  
Cunha, operating under the name of  
Cunha Bros., for certificate of pub-  
lic convenience and necessity to  
establish and continue in operations  
an automobile freight line as a com-  
mon carrier of fruit and vegetables  
from San Jose and intermediate points  
to and including San Leandro, on the  
one hand and San Francisco and  
Oakland on the other hand.

Application No. 8159

G. H. Baker, for applicant.

BY THE COMMISSION :

O P I N I O N

The applicants herein are co-partners and are operating an automobile freight line as a common carrier of fruit and vegetables from San Jose and intermediate points to San Francisco and Oakland, the intermediate points being Milpitas, Warm Springs, Irvington, Centerville, Niles, Decota, Alvarado, Hayward, San Lorenzo and San Leandro.

These applicants are engaged in the buying and selling of general farm products and operate as produce merchants under the name of the Farm Products Sales Company. The tonnage transported is picked up at the different farms, being purchased in the majority of cases outright from the farmers and when not purchased outright is accepted for transportation generally to be sold on a commission basis.

It would appear from the testimony that these applicants are the principal owners of the Farm Products Sales Company and have an assembling plant at Hayward, where all products are delivered for consolidation and forwarding to different destinations. a great part of the tonnage moving from Hayward to interstate points.

The testimony shows that practically 75% of the freight handled by these applicants consists of farm products owned by themselves and that only 25% is hauled for outside parties. The applicants have been hauling the farm products between the points here involved since the year 1915 and now have in operation a fleet of seven trucks and trailers having a total capacity of 17½ tons.

Chapter 213, Statutes 1917, provided that no certificate would be required of any transportation company actually operating in good faith at the time the Act became effective and the testimony clearly indicates that these applicants were in operation prior to the effective date of the Statutes of 1917, although the common carrier services rendered in the past without the filing of tariffs were in violation of the law which violation, however, was not intentional.

After giving careful consideration to all the testimony and to the statements contained in the application, we are of the opinion that there is a public convenience and necessity for this service and that a certificate should be authorized in order to bring the operations within all the provisions of the law.

#### O R D E R

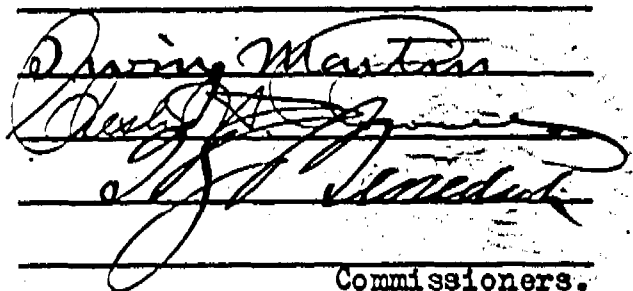
M. S. Cunha, J. P. Cunha and F. J. Cunha, operating under the name of Cunha Bros., co-partners, having petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight line as a common carrier between San Jose and intermediate points to and including San Leandro on the one hand and Oakland and San Francisco on the other, a public hearing having been held and the matter having been duly submitted, and the Commission

being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the es-  
tablishment by this applicant of an automobile freight line as  
a common carrier between San Jose and intermediate points to  
and including San Leandro on the one hand and Oakland and San  
Francisco on the other, and a certificate of public convenience  
and necessity be, and the same hereby is granted, subject to the  
following conditions:

1. Applicants herein shall file within a period  
of not to exceed ten (10) days from date here-  
of their written acceptance of the certificate  
herein granted; shall file within a period not  
to exceed twenty (20) days from date hereof  
tariff of rates and time schedules, such tariff  
of rates and time schedules to be identical  
with those filed as an exhibit and attached to  
the application herein, and shall commence oper-  
ation of the service herein authorized within  
a period of not to exceed thirty (30) days from  
date hereof.
2. 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.
3. No vehicle may be operated by applicants herein  
unless such vehicle is owned by said applicants  
or is leased by them under a contract or agree-  
ment on a basis satisfactory to the Railroad  
Commission.

Dated at San Francisco, California, this 19th day of  
October, 1922.

  
Commissioners.