

Decision 114/2s

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
BUSK BROS. VAN & STORAGE COMPANY, a  
corporation, for a certificate of  
public convenience and necessity as  
a common carrier of certain freight  
between San Francisco, Oakland, Ber-  
keley and Alameda, as northern ter-  
mini, and Los Angeles, California,  
as the southern terminus, and certain  
intermediate points.

ORIGINAL

Application No. 7726.

Harry A. Encell, by Jas. A. Miller, for Applicant,  
Harry N. Blair, for San Joaquin Valley Transporta-  
tion Company, Protestant,  
L. N. Bradshaw, for Southern Pacific Company,  
Protestant,  
Edward Stern, for American Railway Express Company,  
Protestant,  
E. T. Lucey for Atchison, Topeka & Santa Fe Railway  
Company, Protestant,  
Milton Marks for California Highway Express and  
E. H. Schull, Protestants.

BY THE COMMISSION:

O-P-I-N-I-O-N

Busk Bros. Van & Storage Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck line as a common carrier of certain classes of freight between San Francisco, Oakland, Berkeley and Alameda as northern termini and Los Angeles as the southern terminus, and certain intermediate points on the so-called "Valley Route", also the serving of all territory within a distance of twenty miles from the main highway traversed by the proposed route.

Public hearings on this application were conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Applicant restricts the classes of freight proposed to be carried to the following commodities: office furniture and equipment, personal effects, household goods, baggage, pianos and musical instruments, and does not desire to transport any of such commodities locally between San Francisco, Oakland, Berkeley and Alameda as northern termini and Manteca or intermediate points; nor locally between Los Angeles and Bakersfield; nor locally between any intermediate points on the entire proposed route, the intent of the application being primarily a through service between the termini with intermediate business originating at or destined to either of the termini and including operation over the territory located within a distance of twenty miles on either side of the main highway.

The rates proposed to be charged for the service are those appearing in Exhibit "A" of the amended application, together with rules and regulations thereto applicable, and the intermediate points to be served are as follows:

From San Francisco, Oakland, Berkeley and Alameda:-  
Modesto, Turlock, Livingston, Atwater, Merced, Athlone, Chowchilla, Madera, Herndon, Fresno, Fowler, Selma, Kingsburg, Traver, Goshen Junction, Tulare, Tipton, Pixley, Delano, McFarland, Famoso, Bakersfield, Lebec, Saugus, Newhall and San Fernando.

From Los Angeles:- Famoso, McFarland, Delano, Pixley, Tipton, Tulare, Goshen Junction, Traver, Kingsburg, Selma, Fowler, Fresno, Herndon, Madera, Chowchilla, Athlone, Merced, Atwater, Livingston, Turlock, Modesto, Manteca, Tracy Livermore, Hayward, Alameda, Oakland and Berkeley.

The schedule proposed provides for one round trip each week leaving Oakland either Tuesday or Wednesday forenoon, and leaving Los Angeles either Thursday or Friday morning, using as equipment one  $3\frac{1}{2}$  ton Fargoel Truck equipped with van, one  $2\frac{1}{2}$  ton Republic truck equipped with van, one  $1\frac{1}{2}$  ton Republic truck and one  $1\frac{1}{2}$  ton Denmo truck.

Applicant relies as justification for the granting of the application upon the alleged fact that it has had much experience in the business of transporting freight by automobiles and is therefore in a position to render a safe, speedy, adequate and necessary service to the public in the transportation of the particular commodities for which certificate is desired; that there is a particular demand in the territory proposed to be served for the rapid and systematic transportation of the classes of freight proposed to be handled by applicant.

Mr. Chris. E. Busk, president of applicant corporation, testified that he had been engaged for a period of about five years in the business of hauling commodities such as herein applied for, gradually expanding his activities from a local city hauler to trips of long distances; that the trip between terminals could be made in thirty hours; that it was his estimate that ninety percent of the business that would be handled would be uncrated, and that usually a load of four tons was hauled between terminals.

Mr. Don. M. Witt, vice-president of applicant corporation, testified that he was in charge of the "outside hauling" of applicant and in such position had received many inquiries regarding long distance hauling, and that no complaints had been made as to the character of service rendered when such hauling was done for patrons.

A witness was presented on behalf of applicant who

testified that a consignment of household goods and personal effects had been hauled by applicant from Santa Ana to Oakland and that the shipment arrived in a satisfactory manner and without cause for complaint. It appears, however, that this witness was not familiar with the rate charged or other arrangements incident to the transaction, he having been transferred to Oakland from Santa Ana and the arrangements for the transportation were made for him as incidental to his employment.

An exhibit was presented by applicant consisting of six letters from patrons expressing satisfaction for the character of service rendered in the handling of shipments by applicant, and the preference of the writers for the transportation of their goods by motor truck rather than by rail.

An exhibit was presented by applicant which consisted of a detailed statement showing long distance hauling performed by Busk Brothers during the period, August 4, 1921, to March 28, 1922, (both dates inclusive). The business of the applicant herein was incorporated on January 15, 1922, as evidenced by a certified copy of the articles of incorporation filed herein, and the statement filed can be considered only as to the volume of business transacted by applicant since the date of commencing business as a corporation following its legal incorporation, and that done by its predecessor. A further consideration of this exhibit will later appear.

The granting of this application is protested by the Southern Pacific Company, the Atchison, Topeka & Santa Fe Railway Company, the American Railway Express Company, California Highway Express, E. E. Schull and San Joaquin Valley Transportation Company.

Mr. Chas. A. Nelson, president of California Highway Express, protestant, testified that his company was prepared to handle all business offering for movement by auto truck over the

route sought; that his company possessed and could secure all necessary equipment; that no shipments had been refused; that his company was able and willing to transport all property of the character herein proposed by applicant.

Mr. E. H. Schull, protestant, also testified that he was able to transport all shipments offered and furnish adequate equipment, and that at no time had shipments been refused.

Mr. Chas. A. Beck, a witness for the Commission, testified as to complaints having been made regarding the unauthorized transportation by Busk Brothers of shipments between San Francisco and Los Angeles and intermediate points; of interviews following such complaints which were had with Mr. Chris. E. Busk, president of applicant corporation, regarding the alleged unauthorized operation and of promises made by Mr. Busk that no further operation would be conducted pending an application for a certificate of public convenience and necessity and the decision thereon by the Commission. It appears, however, that the unauthorized operation was conducted; that a driver of Busk Brothers was arrested in Los Angeles for operation without certificate or local permit authorizing interurban operation in and out of the city of Los Angeles; that Busk Brothers of 5911 Pasadena Avenue, Los Angeles, were cited before the Board of Public Utilities of the City of Los Angeles on April 13, 1922, and that the matter of alleged violation was referred to this Commission, Mr. E. W. Busk of Los Angeles having represented to the Board of Public Utilities that the truck mentioned in the citation was being operated by Busk Brothers and Company of Oakland.

We have carefully considered all the evidence and exhibits in this proceeding. The exhibit filed by applicant as "Exhibit No.2" and showing a detail of "Long Distance Hauling from August 4, 1921, to March 28, 1922", shows a total of 151 shipments aggregating 432,804 lbs., or an average weight per shipment

of 2,866 lbs. Of the total shipments 93 aggregating 246,939 lbs. were through shipments between Los Angeles and San Francisco Bay points; 33 shipments aggregating 95,945 lbs. were between points intermediate on the route herein applied for; and 25 shipments aggregating 89,920 lbs. were between points other than are included on the desired route. The exhibit reflects no data as to the rates charged, or the compensation received (from which the rate could be ascertained) and as the majority of the shipments were transported by the predecessors of applicant the statement contains but little of evidentiary value.

There is no evidence before the Commission in this proceeding justifying the granting of the application. It appears that the predecessors of applicant have been several times cautioned by the Commission as to complaints following circumstances arising from alleged operation in violation of the provisions of Chapter 213, Statutes of 1917, and amendments thereto, and that the Board of Public Utilities of the City of Los Angeles has also endeavored to secure compliance with ordinances of that city which are alleged to have been violated by the character of operation heretofore conducted. There is no evidence whatsoever in any manner justifying the operation over a territory located twenty-five miles on either side of the route between San Francisco and Los Angeles, and the entire application is apparently based on the desire of the applicant to enter the business of a common carrier over a route already well served by rail and truck lines.

The California Highway Express, a corporation, and E.H. Schull, an individual operating under the fictitious name of Pacific Highway Express, each possess certificate rights for operation between Los Angeles and San Francisco at rates similar to those proposed by applicant herein; are both operating via the so-called "Valley Route"; each possess equipment properly

adapted for the carriage of the character of commodities sought to be transported by applicant herein; no complaint appears against the character of service heretofore rendered by such protestants, and each are ready and willing to expand their facilities as such may be necessary to meet the demands of traffic. No complaint exists as to the character of service rendered by the Southern Pacific Company, the Atchison, Topeka & Santa Fe Railway or the American Railway Express Company as regards transportation afforded by such companies.

In view of the service now rendered by the rail, express and motor freight lines over the territory herein sought to be served by applicant herein and the ability of such carriers to furnish any additional service required by the demands of traffic, we are of the opinion and hereby find as a fact that public convenience and necessity do not require the establishment of the service for which applicant has requested authorization by the issuance of a certificate of public convenience and necessity.

O-R-D-E-R

Public hearings having been held in the above entitled proceedings, the matter having been duly submitted and the Commission being now fully advised and basing its declaration and order on the finding of fact as appearing in the opinion which precedes this order,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by Busk Brothers Van & Storage Company, a corporation, of an automobile truck line as a common carrier of certain classes of freight between San Francisco, Oakland, Alameda and Berkeley as northern termini and Los Angeles as the southern terminus, and intermediate points on the so-called "Valley Route" nor the serving of terri-

tory within a distance of twenty-five miles from the main highway traversing such route, and

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

Dated at San Francisco, California, this 29<sup>th</sup> day of December, 1922.

H. V. Bondige

Erving Martin

J. J. Leonard  
Commissioners.