

Decision No. 6764

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of )  
M. HAYDIS for certificate of public )  
convenience and necessity to operate ) Application Number 4833.  
motor truck express line. )

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Liggett & Liggett by C. Liggett, for Applicant.

Hendee & Rodabaugh by E. E. Rodabaugh, for Chas.  
D. Boynton, Proprietor, Boulevard Express,  
Protestant.

M. W. Read for The Atchison, Topeka & Santa Fe  
Railway.

BY THE COMMISSION:

ORDER

M. HAYDIS 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 express and freight between Los Angeles and San Diego.

A public hearing on this application was conducted by Examiner Handford at San Diego on September 17, 1919, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked exhibit "A" and filed with the application in this proceeding and to operate on a schedule of one round trip, daily except Saturday. The equipment proposed to be used con-

sists of one Kissel Motor Truck, three ton capacity, licensed by State Motor Vehicle Department under License No. 336577. Other equipment is to be provided if the requirements of traffic justify.

Applicant is operating a freight and express service between San Diego and points in the Imperial Valley under the authority of a certificate of public convenience and necessity issued by the Railroad Commission and desires to extend his route to cover the business between San Diego and Los Angeles, relying as justification for the granting of the desired certificate upon the alleged fact that the existing authorized motor truck line does not and can not accommodate and carry all the freight offering for transportation over the route herein sought.

At the hearing applicant requested that his application be considered on the basis of through business between San Diego and Los Angeles, no permit for the carriage of local or intermediate business being sought or desired.

Applicant testified as to his opinion, based on observation, that ample business offered to make the establishment of the line a profitable venture and directed attention to the operation of automobile trucks over the route for which certificate is sought. It appears, however, that the trucks which are operating are either on a rental or contract basis and no evidence was introduced indicating that any trucks were being operated as common carriers other than the equipment of the Boulevard Express which is regularly operating under certificate from the Railroad Commission.

The granting of this application is protested by Chas.

D. Boynton, proprietor of the Boulevard Express, on the basis that adequate service and at reasonable rates were offered by his line; that ample equipment was provided which was not utilized to its capacity; that the protestant was financially able and willing to provide any additional service or equipment that might be necessary to meet the demands for motor truck transportation for through business between San Diego and Los Angeles; that no complaint had been received as to rates charged by protestant or as to failure to satisfactorily handle all business offered; and that the route did not offer sufficient business to justify the establishment of a competing truck line as a common carrier.

The Atchison, Topeka and Santa Fe Railway Company directed attention to the service and rates offered by the United States Railroad Administration as its lessee and the American Railway Express and to the ability of both to provide ample service and facilities for all business offering for movement over the route herein sought by applicant.

A comparison of the rates proposed by applicant with those of the Boulevard Express indicate that they are practically the same with the exception of the rate on truck lot shipments, such rate being approximately 50 per cent of the rate in effect over the line of the Boulevard Express. The matter of truck lot rate is not a sufficient reason for the granting of the desired certificate particularly when no showing was made as to any complaint by shippers and receivers of freight as to the unreasonableness of the rates now in effect on the line of a competing truck carrier. The movement of commodities by truck lots is usually on the basis of contract hauling rather than movement by a truck company operating as a common carrier and

in this proceeding it was not shown that any demand existed on the part of the public for such service to be rendered by the applicant.

After careful consideration of all the evidence in this proceeding, we are of the opinion that no evidence appears which would justify the granting of the desired certificate. The applicant desires to extend his field of operation as a common carrier to the through business between Los Angeles and San Diego, but has made no showing as to public convenience and necessity other than his desire to serve the route herein sought. The Commission has repeatedly stated in its decisions on applications for certificates of public convenience and necessity that an affirmative showing must be made and that the desire of an applicant to enter the business or to expand his activities as a common carrier is not sufficient justification for the granting of a certificate. Applicant herein has failed to establish the fact that public convenience and necessity require his operation over the route herein sought and the application must, therefore, be denied.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by M. Haydis of an automobile truck line as a common carrier of freight and express between San Diego and Los Angeles, and

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

Dated at San Francisco, California, this 22<sup>d</sup> day of October ~~September~~, 1919.

Edwin O. Engstrom  
H. S. Loveland  
Stuart Phelps  
Jessie Martin

Commissioners.