

ORIGINAL

Decision No. 6900.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of
HIGHWAY TRANSPORT CO. for certificate
of public convenience and necessity to
operate freight service between San
Francisco and San Jose and intermediate
points.

Application No. 4894.

Chas. K. Harper for Applicant.

John A. Percy for San Francisco and San Jose
Transportation Company, Protestant.

C. S. McLenegan for S. B. McLenegan and Son
and Gibson's Express, Protestants.

F. B. Austin, Harry T. Hennessy and E. W. Cline
for United States Railroad Administration;
Southern Pacific Railroad, Protestant.

Harry T. Hennessy for American Railway Express,
Protestant.

BY THE COMMISSION:

ORDER

Highway Transport Co., a corporation, has petitioned
the Railroad Commission for an order declaring that public con-
venience and necessity require the operation by it of an auto-
mobile truck line as a common carrier of freight between San
Francisco and San Jose and intermediate points.

Public hearings were conducted by Examiner Handford
at San Francisco on September 20 and December 1, 1919, the
matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule filed at one of the hearings on this proceeding and to operate on a schedule of one round trip daily, except Sundays and holidays, serving as intermediates the communities at Daly City, Colma, South San Francisco, Baden, San Bruno, Millbrae, Burlingame, San Mateo, San Carlos, Redwood City, Menlo Park, Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, Bay Shore and Visitation; using as equipment four Fageol Trucks, three of 3 1/2 ton capacity, one of two ton capacity; four trailers and two Ford Trucks used for pick up and delivery work.

Applicant commenced business on September 14, 1918, as a contract carrier on the route between San Francisco and San Jose and now desires the authority of the Railroad Commission to enter the transportation field as a common carrier. Applicant claims to have originally had about one hundred contract shippers and that its books now reflect business with from five to six hundred shippers and consignees. It is stated that there is a demand from the public, other than the parties with whom applicant has done business as a contract carrier, for opportunity to ship via the facilities offered by applicant and that there is an average of thirty inquiries per month from parties desiring service. At the hearings on this application there was no testimony offered in support of the application other than that of one of the officials of the applicant company, and the alleged desire of the public for the character of transportation proposed by the applicant was not substantiated by any testimony.

This application is opposed by the United States Railroad Administration on behalf of its lessors the Southern Pacific Railroad and American Railway Express; by the San Francisco and San Jose Transportation Company; by S. B. McLenogan and Son;

and by Gibson's Express.

The Southern Pacific Railroad offer a daily, except Sunday, service to the points proposed to be served by applicant; shipments delivered to San Francisco prior to the hour of closing the receiving sheds, 5:00 P. M., being delivered in San Jose on the following morning. The rates of the Southern Pacific Railroad are as follows, expressed in cents per hundred pounds:

CLASS	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D&E</u>
RATE	25	21	17½	15	11	12½	9	7½	6½

The American Railway Express offers facilities for transportation on seven trains each way via the Coast Division of the Southern Pacific Railroad and as regards shipments to San Jose by four trains each way via Oakland. A pick-up and delivery service is also maintained. The rates of the American Railway Express are as follows:

	<u>Classes</u>		
	<u>First</u>	<u>Second</u>	<u>Special Commodity</u>
Between San Francisco and points south of Redwood City	88¢ per cwt.	66¢	64¢
Between San Francisco and Redwood City, inclusive.	77¢ per cwt.	58¢	56¢

Both the Southern Pacific Railroad and the American Railway Express have ample facilities alleged to be adequate to take care of all business that may be offered between the points for which applicant desires certificate.

Protestants, San Francisco and San Jose Transportation Company, S. B. McLenegan and Son, and Gibson's Express, each operate motor freight and express service between San Francisco and San Jose, serving as intermediates the same communities as proposed by applicant.

There has been no evidence in this proceeding which indicates that the facilities of the existing authorized transportation companies, both rail and motor, are unable to satisfactorily meet the demands of the public in the matter of transportation as a common carrier between San Francisco and San Jose and points intermediate to such termini. The testimony in behalf of applicant company indicates a desire to enter the transportation field as a common carrier instead of continuing the business under the guise of a contract carrier, and as the Railroad Commission has repeatedly held in its decisions on applications for certificates of public convenience and necessity the desire of an applicant to enter the business of a transportation company as defined by Section 1 of Chapter 213, Statutes of 1917, is not a measure of public convenience and necessity nor an affirmative showing that the public convenience and necessity require additional service.

Applicant will be required to immediately file with this Commission its rates for transportation as a contract carrier together with copies of all contracts under which such contract carriage is being conducted, and the application for certificate of public convenience and necessity to operate as a common carrier will be denied.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by Highway Transport Co., a corporation, of an automobile truck line as a common carrier of freight between San Francisco and San Jose and intermediate points, and

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

Dated at San Francisco, California, this 5th day of December, 1919.

Edwin C. Edgerton

H. S. Loveland

Frank R. Rubin

Commissioners.