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Decision No. 8408

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
 C. C. WHALEY and E. E. WHALEY for )  
 certificate of public convenience :  
 and necessity to operate freight ) Application No. 6168  
 and express service between Santa )  
 Cruz and San Francisco. )  
 :  
 )

Emmet C. Rittenhouse for applicants  
 J. R. Allen for American Railway Express  
 L. N. Bradshaw for Southern Pacific Company

BY THE COMMISSION

O R D E R

C. C. Whaley and E. E. Whaley, co-partners, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile truck line as contract carriers of freight between Santa Cruz and San Francisco.

A public hearing on this application was conducted before Examiner Satterwhite on November 3rd, 1920, at Santa Cruz, at which time and place the matter was duly submitted and is now ready for decision.

Applicants propose to charge rates in accordance with exhibit marked "A" attached to said application and to operate on a schedule of not less than one nor more than seven round trips per week, in accordance with Exhibit "B" as amended at the hearing, using as equipment two 2-ton pneumatic equipped Seldon Trucks.

The Southern Pacific Company and the American Railway Express appeared in opposition to the granting of this application.

The testimony of applicants shows that they have entered into written contracts with five certain wholesalers who ship eggs and poultry and other commodities to San Francisco, and who have been using the services of applicants for the transportation of eggs and poultry, and other commodities to San Francisco. These written contracts were presented at the hearing and are now on file with the Commission and are with the following named firms: Williamson & Garrett; Shipway & Nakken; O. A. Childers; Kulman, Salz Company; Poultry Producers of Central California, Inc.

It was shown that this proposed service would provide a rapid transportation and delivery from the places of business of the said wholesalers at or near Santa Cruz to San Francisco, and that the time in transit would be about six hours. The above named wholesalers of eggs and poultry ship considerable also by way of the protestant rail lines, but there was testimony to the effect that there is much less breakage in eggs by the proposed truck service and that there is less handling of chickens shipped, it appearing that eggs are handled four times by the American Railway Express and only twice by this proposed truck service.

It was also shown that trips are to be made in the night, thereby avoiding the day time traffic on the public highways. The applicants will follow a definite route by way of Glenwood and Los Gatos, and will carry only empty boxes, cases and containers on the back haul from San Francisco.

The Southern Pacific offered in evidence its rate and time schedule between San Francisco and Santa Cruz and also a statement showing that the average time consumed in transit for handling less than carload lots freight is about eighteen hours. The American Railway Express Company testified as to their rate and time schedules showing that they operate on five trains daily, one train consuming three hours and the other about five hours.

After a careful consideration of the evidence, we are of the opinion that the application should be granted.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by C. C. Whaley and E. E. Whaley, co-partners, of an automobile truck line as contract carriers of freight for Williamson & Garrett; Shipway and Nekken; O. A. Childers; Kulman, Salz Company; Poultry Producers of Central California, Inc., between Santa Cruz and San Francisco by way of Glenwood and Los Gatos, provided, however, that applicants shall file with this Commission copies of all contracts under which they are now conducting this service and that no discrimination shall exist as regards rates on similar commodities handled between specified points; provided, further

That tariffs covering such contract rates shall be filed with this Commission as required by the provisions of General Order No. 51, and provided further

That the rights and privileges hereby granted may not be transferred nor assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been secured.

IT IS HEREBY ORDERED that no vehicle may be operated under this certificate unless such vehicle is owned by applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the RAILROAD COMMISSION.

DATED at San Francisco, California, this 30<sup>th</sup> day of November, 1920.

Edwin O. Edgerton  
F. D. Loveland  
Frank D. Allen  
H. B. Brundage  
Waring Martin  
Commissioners