

Decision No. 2192

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of)
L. SCATENA & COMPANY and A. GALI FRUIT)
COMPANY, Consolidated, for certificate :
of public convenience and necessity :
to operate auto truck service between)
points in Santa Clara County and San)
Mateo County and San Francisco. :

Application No. 6693

- J. E. McCurdy for Applicant.
- L. N. Bradshaw for Southern Pacific Company,
and American Railway Express.
- B. F. Mc Kibben and G. N. Anderson for San
Francisco and San Jose Produce Transfer
Company and Bay City Hauling Company and
Highway Transport Company.

BRUNDIGE, Commissioner.

OPINION

In this petition L. Scatena & Company and A. Galli Fruit Company, Consolidated, a corporation, has made application to the Railroad Commission petitioning for a certificate of public convenience and necessity permitting the operation of an automobile truck line as a contract carrier between San Francisco and points in San Mateo and Santa Clara Counties, north of San Jose.

A public hearing was held at San Francisco on June 23, 1921, at which time the matter was submitted and is now ready for decision.

Applicant operates several commission houses in the City of San Francisco and has heretofore been engaged in the operation of a number of trucks carrying fruit, berries and vegetables from producing points in Santa Clara and San Mateo Counties to its commission houses in the City of San Francisco.

The granting of this application was protested by the San Francisco and San Jose Produce Transfer Company, the Bay City Hauling Company and the Highway Transport Company. The Southern Pacific Company and the American Railway Express withdrew their objection to the granting of such application.

The service which applicants propose to perform is of a nature not usually rendered by transportation companies in that the produce in question is picked during the hours of day light, gathered and packed in the early evening and transported to San Francisco so as to arrive at the commission houses not later than six or seven A. M. the following day.

Testimony of witnesses for applicant showed that producers in the territory proposed to be served have had considerable trouble with transportation companies handling this class of commodity in that on a number of occasions shipments have been left standing at the roadside for from one to three days, thereby considerably deteriorating in value with resultant loss to shippers. Due to such service applicant was forced to install and operate its own truck line primarily with a view to arranging for prompt delivery of consignments to its own commission house. It subsequently entered into contracts with the producers whereby it carried produce to not only its own commission houses but to other commission houses as well.

Witnesses which applicant produced at the hearing testified that since applicant has inaugurated its own truck lines, the service has been in every way satisfactory and that irrespective of whether or not it had one sack or box of produce, applicant's truck always called promptly and delivered the commodities to consignor in good condition.

Under the provisions of Chapter 213, Statutes of 1917, only automobile truck lines operating over a regular route between fixed termini as common carriers were included as subject to the provisions of such Act. Chapter 213, Statutes of 1917 as amended

by Chapter 280, Statutes of 1919, included not only common carriers, but any one engaged in the business of transportation for compensation over a regular route between fixed termini as subject to the provisions of such Act. This amended Act also provided that no certificate would be required of any transportation company as to the fixed termini between which or the route over which it was actually operating in good faith at the time such Act became effective.

It would appear from such provisions that applicant herein is a contract carrier and not being subject to regulation under Chapter 213, Statutes of 1917, before its amendment, was entitled to file copies of their rates, contracts and time schedules in that it was operating in good faith prior to the effective date of Chapter 213, as amended by Chapter 280, Statutes of 1919 and continuously thereafter. The amended Act became effective on July 22nd, 1919.

The question raised in this proceeding is solely one of service as both the proposed rates of the applicant herein and of protestants handling a similar class of business are identical. Applicant will not handle any south bound traffic other than the return of empty crates and boxes upon which there will be no charge, such service being included upon the charge assessed for the transportation of the full crates and boxes from the truck gardens to San Francisco.

Due to the fact that applicant has been engaged in rendering this service continuously since the spring of 1919 and that no actual new service will be created, it is my opinion that sufficient public necessity has been shown to warrant a continuation of the same.

I submit the following form of order.

O R D E R

L. Scatena & Company and A. Galli Fruit Company, Consolidated, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile truck line as a contract carrier between San Francisco and points in San Mateo County and Santa Clara County, north of San Jose, a public hearing having been held, evidence submitted and it appearing to the Commission that such application should be granted,

IT IS HEREBY DECLARED that public convenience and necessity require the operation by L. SCATENA & COMPANY and A. GALLI FRUIT COMPANY, Consolidated, a corporation, of an automobile truck line as a contract carrier of fruit, berries and vegetables between points in Santa Clara County, north to San Jose, serving as intermediate points all truck gardens in Santa Clara County north of San Jose and in San Mateo County along and adjacent to the State Highway to San Francisco and a certificate of public convenience and necessity be and the same hereby is granted subject to the following conditions:

1. That applicant shall file within ten (10) days of the date of this order, its written acceptance of the certificate herein granted and shall file within twenty (20) days of the date of the order herein duplicate copies of its tariffs of rates and time schedules and shall begin operation within twenty (20) days from date hereof. For all other purposes the effective date of this order shall be twenty (20) days from date hereof.

2. That the rights and privileges hereby 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. That no vehicle may be operated by the applicant herein, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of

June, 1921.

H. B. Spindige
A. D. Woodruff

[Signature]
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Commissioners