

ORIGINAL

Decision No. 9398 -

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of)
L. A. MISENER for certificate of)
public convenience and necessity to)
operate as a contract carrier of)
green fruit and produce between Los)
Gatos, Mountain View and Oakland)
and intermediate points.)
.....)

APPLICATION No. 6730.

- L. A. Misener in Propria Persona.
- G. L. Swett for S. & P. Truck Line, Protestant.
- A. B. Roehl for Service Motor Transport Company; Oakland & San Jose Transportation Company, Protestants.

BY THE COMMISSION:

O P I N I O N.

L. A. Misener 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 contract carrier of green fruit and produce between Los Gatos, Mountain View and Oakland and intermediate points.

A public hearing on this application was conducted by Examiner Handford at San Francisco on August 20, 1921, the matter was duly submitted and is now ready for decision.

Applicant has been in the business of hauling fruit, vegetables and farm produce between Los Gatos, Cupertino, Saratoga, Mountain View, Sunnyvale, Santa Clara, San Jose, Campbell, Berryessa, Milpitas and Oakland since the summer

of 1917, his operation being seasonal and within the period from April 1st to October 31st of each year. Applicant during these periods has hauled fruit, vegetables and produce to wholesale houses in Oakland, orders being received by him for transportation of products which may be purchased from ranches by buyers for the account of the wholesale houses to whom the shipments are consigned.

Applicant proposes to charge rates in accordance with a schedule marked exhibit "A" and attached to the application in this proceeding and to operate service six days a week during the period April 1st to October 31st of each year using as equipment one Packard truck of threeton capacity.

The proposed operation is protested by the S. & F. Truck Line, the Service Motor Transport Company and the Oakland and San Jose Transportation Company insofar as such operation would interfere with the business of these regularly established truck lines in the territory between Oakland and San Jose. It appears, however, and was so stipulated, that it is not the desire of applicant to enter into the business of a freight carrier other than in the matter of transportation of fruit, vegetables and farm produce; that no return loads other than empty carriers are to be transported and that nonloads or shipments will be picked up or delivered on the highway between Oakland and San Jose; the applicant, however, desiring the right to pick up fruit, vegetables and farm produce from ranches which may be located off the highway between such points.

After consideration of all the evidence in this proceeding, it appears that applicant is before the Commission at this time to perfect an operative right and to secure a certificate granting authority for the legal conduct of the business which has been conducted by him during the fruit and vegetable season of each year and for some years last past.

We are of the opinion that the application should be granted subject to the conditions as contained in the following order.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised,

THE RAILROAD COMMISSION HEREBY DECLARES, That public convenience and necessity requires the operation by L. A. Misener of an automobile truck line as a common carrier of green fruit, vegetables and farm produce between Los Gatos and Oakland serving as intermediate points the communities at Cupertino, Saratoga, Mountain View, Sunnyvale, Santa Clara, San Jose, Campbell, Berryessa and Milpitas; provided, however, that the authority herein conveyed does not cover the handling of any shipments other than fruit, vegetables and farm produce from the districts above mentioned to Oakland; that no authority is granted for the carriage of return loads other than empty carriers in which fruit, vegetables or farm products have been or are to be transported by applicant herein; that no shipments shall be handled between San Jose and Oakland originating on the State Highway between such points, ^{except at the places named above} although shipments originating at ranches located at points off the State Highway may be handled within a zone not in excess of two miles distant from said State Highway.

IT IS HEREBY ORDERED,

I - That applicant, L. A. Misener, shall file within ten (10) days from the date hereof, his written acceptance of the certificate herein granted, and shall file within twenty (20) days from the date hereof, tariffs and time schedules in duplicate and in accordance with the provisions of General Order No. 51 and other

rules and regulations of this
Commission.

II -That applicant, L. A. Miscner,
shall not sell, lease, assign,
transfer, hypothecate or discon-
tinue the service herein auth-
orized, unless such sale, lease,
assignment, transfer, hypothecation
or discontinuance shall have first
been authorized by the written con-
sent of the Railroad Commission.

III- That no vehicle shall be operated
under the authority conferred by
this certificate unless such
vehicle is owned by the applicant
herein or is leased by such appli-
cant under a contract or agreement
on a basis satisfactory to the
Railroad Commission.

Dated at San Francisco, California, this 23rd day of
August, 1921.

H. A. Brundage

H. S. Howard

James Martin

J. P. Jensen
Commissioners.