

Decision No. 94120

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
F. M. HODGE, L. E. MERSHON and H. A.  
ROSE for certificate of public con-  
venience and necessity to operate  
automobile freight service between  
Fresno, California, and Los Angeles,  
California.

ORIGINAL

Application No. 6217.

Harry N. Blair and Lewis B. Randall  
for Applicants.

Bradley & Bradley, by C. L. Bradley,  
for G. C. Scribner, protestant.

Ernest Walling for Valley Transit Co.  
and J. C. Walling, protestants.

G. H. Baker for Atchison, Topeka & Santa  
Fe Railway Co., protestant.

L. N. Bradshaw for Southern Pacific Co.,  
protestant.

J. R. Allen for American Railway Express  
Co., protestant.

Harry A. Encell for R. H. Ramsey and  
H. Frasher, protestants.

George Clark for G. N. Duntley (Los Angeles-  
Bakersfield Fast Freight Truck Line).

BY THE COMMISSION.

O P I N I O N

L. E. Mershon and H. A. Rose, as co-partners under the fictitious name of the Truckportation Company, applied for authority to establish freight and express truck service between Los Angeles and Fresno, serving as intermediate points Bakersfield, Jewetta, Lerdo, Famoso, McFarland, Delano, Richgrove, Orris, Ducor, Terra Bella, Plano, Porterville, Strathmore, Lindsay, Exeter, Farmersville, Visalia, Tulare (by detour), Goshen, Traver, Kingsburg, Selma,

and  
Wincdale, Fowler, / Calwa City.

Public hearings upon the application were held by Examiner Westover at Bakersfield and Fresno, during which 55 witnesses were examined, testimony of numerous witnesses was stipulated, and 16 exhibits were filed. Counsel for the respective parties have filed voluminous briefs which, together with the exhibits, have been carefully studied and analyzed and the matter is now ready for decision.

During the hearings, leave was granted to amend the application by adding the name of F. M. Hodge as a third applicant, he having become associated with the two original applicants, by modifying proposed rules relating to free pick-up and delivery; and by making special truck load rates. Amendments in these particulars were filed after the hearings.

As thus amended, the proposed rates shown by the application are made to apply between terminals in Los Angeles, Bakersfield and Fresno and free delivery zones not exceeding twelve blocks distant from such established terminals or depots. At points other than Los Angeles, Bakersfield and Fresno, these rates include free pick-up and delivery within four blocks from applicant's proposed highway route. Truck load rates of two-thirds less-than-truck load rates are also provided for to apply from all points within five miles of the highway route.

Applicants' proposed route between Los Angeles and Bakersfield is over the so-called Ridge Route via Lebec, a distance of 126 miles; as compared with the Southern Pacific rail distance between Los Angeles and Bakersfield of 171 miles, Both routes involve mountain grades through the Santa Susana and Tehachapi ranges.

The territory between Los Angeles and Bakersfield, is at present served by the Southern Pacific Company, the American Railway Express Company, and the Los Angeles & Bakersfield Fast Freight

Truck Line, the latter under authority granted by the Commission by Decision No. 7063 of January 27, 1920, authorizing George N. Duntley to operate such a service under the above fictitious name. The latter service is via the Ridge Route, over which applicants seek authority to operate. It appears from the testimony that Mr. Duntley's line was not able to handle all business offered during the time the tunnel was blockaded, as hereinafter referred to, but that it is not operated to capacity under normal conditions, and also that he is able to provide additional equipment if and when it becomes necessary.

On September 6, 1920, a car of lime was derailed in one of the Southern Pacific tunnels, which resulted in the burning of the tunnel and the closing of the line until September 28th. During this period, rail service, both freight and express, was necessarily seriously interfered with, the only means of serving Bakersfield and San Joaquin Valley points from Los Angeles by rail being around the coast line and back through the valley. Although the testimony shows that the Duntley line is not operating to full capacity normally, yet during the above period when the tunnel was out of service, it had more tonnage offered than it could handle. At the time of the hearing, the Southern Pacific Company was engaged in concreting 16 of its tunnels between Tehachapi and Bakersfield, and eliminating two by line changes. Thirteen had already been concreted at a cost up to that date of \$600,000., the total estimated cost of the entire work being \$844,000. The company anticipates that the concrete lining will prevent fires and cave-ins of tunnels and prevent blocking of the line.

Applicants presented 135 signed statements by Bakersfield shippers, favoring a competitive truck line to and from Los Angeles. It is significant that practically all of these statements were procured during the period when the tunnel was blocked. It appears

from applicants' tabulations also that 64 Bakersfield shippers interviewed during the same period were opposed or neutral.

The testimony shows considerable complaint of slow wagon service at Bakersfield and Fresno on the part of the express company. There was also testimony to the effect that the express company, in certain instances, had declined shipments of perishable fruit offered for transportation on the southbound train leaving Bakersfield at 12:20 P.M., and that the company failed to furnish sufficient help at stations for loading fruit. It did not appear, however, that the fruit was offered a reasonable time before train departure nor that the company had any advance notice of instances in which large shipments of fruit were to be offered. It appears from its testimony that it has never declined fruit or other shipments when offered a half hour or more before the departure of the train, to permit proper checking and billing. It announced that it would gladly provide an extra force for loading cars with unusually large shipments if it were given reasonable notice by telephone. We are satisfied that the service in the above particulars can be readily improved by the express company if it is given the necessary co-operation by shippers, and that the public can be adequately served in these particulars by such improvement in the service of present carrier, without the necessity for authorizing service by another transportation system between Los Angeles and the incorporated limits of Bakersfield.

We will next consider the present service between Los Angeles and points in the San Joaquin Valley north of Bakersfield to and including Fresno, and whether or not there is a public necessity and convenience in this territory for the service which applicants offer.

The Southern Pacific Company, with its two main routes between Bakersfield and Fresno, serves all of the points which applicants propose to serve. Of these points, the Santa Fe, with

its two routes between Bakersfield and Fresno, serves Tulare, Visalia, and Exeter. The American Railway Express Company serves all the points which applicants propose to serve by their operation over both rail lines. G. C. Scribner operates a freight and express line between Fresno and Visalia, serving Traver and Goshen Junction as intermediate points. H. S. Frasher operates between Fresno and Tulare, serving Goshen and Traver as intermediate points. A. L. Morgan operates between Fresno and Kingsburg, serving Selma as an intermediate point, having begun operation prior to May 1, 1917. The line between Fresno and Fowler is operated by R. H. Ramsey who began operating in 1914. All these present carriers protest the granting of the application.

It appears that there is sufficient local service at present between Fresno, Fowler, Selma, Kingsburg, Traver, Goshen and Visalia. There are no truck lines serving the other intermediate points between Bakersfield and Fresno, which applicants seek authority to serve. The present freight and express service by rail in that territory is as follows:

The Southern Pacific Company presented an exhibit prepared from its waybills for shipments arriving during October, 1920, just after the line was cleared following the closing of the tunnel. This shows elapsed time between receipt of shipment and date of waybill on the one hand, and the day when the waybill was taken into the station accounts at destination. From this exhibit, it appears that the time in the majority of cases between Los Angeles and points shown, and the average weight per shipping day was as follows:

Between Los Angeles and Following Points

	days,	15102 lbs. daily average		
Bakersfield	2		15102	lbs. daily average
Tulare	3	2	4464	" "
Goshen	3 to 5	"	67	" "
Visalia	2 and 3	"	4318	" "
Exeter	3 " 4	"	1267	" "
Strathmore	3 " 4	"	449	" "
Porterville	2, 3 and 4	"	4994	" "
Terra Bella	3, 4 and 5	"	735	" "
Kingsburg	4 and 5	"	1741	" "
Selma	4 " 5	"	1999	" "

It also presented an exhibit showing average hours elapsed between 4:00 P.M. of the day of loading and the time when the freight was available for removal from the freight house at destination, as follows:

<u>From</u>	<u>To</u>	<u>Average Hours</u>	<u>Cars in Average</u>
Los Angeles	Bakersfield	39	13
Los Angeles	Fresno	46	13
Fresno	Los Angeles	67	44
Bakersfield	Los Angeles	45	36
Fresno	Dolano	19	24
"	Kingsburg	16	22
"	Selma	16	28
"	Tulare	17	23
"	Visalia	16	23

The Santa Fe operates through cars from Fresno to Bakersfield and Los Angeles, breaking bulk at those points. It showed that <sup>of</sup> that/27 through cars moving out of Fresno at 6:00 P.M., November 29th to December 30th last, 20 were ready for delivery at Bakersfield the following morning, 3 the following afternoon, and 3 on the second morning. The actual time in transit was from 13 hours, 5 minutes, to 32 hours, 25 minutes, or an average of 16 hours, 37 minutes, for the 111 miles.

The American Railway Express Company operates out of Fresno at 12:30 P.M. and 5:30 P.M., arriving at Bakersfield 4½ and 5 hours later, respectively, via Porterville; also leaving Fresno at 3:30 A.M. for Porterville and intermediate points, and leaving Fresno at 7:15 A.M. for points south of Exeter, arriving at Bakersfield at 11:52 A.M. and Los Angeles at 8:25 P.M. Neither of the truck lines operating out of Fresno have any time schedule on file and their service as to time was not shown at the hearing, except Mr. Scribner's.

Applicants propose to operate upon a schedule leaving Los Angeles at 5:00 P.M., Bakersfield at 5:00 A.M., McFarland at 7:10 A.M., Terra Bella at 9:10 A.M., Porterville at 10:15 A.M., Visalia at 12:55 P.M., arriving at Fresno 4:40 P.M., with time at other points about in proportion to distance; and leaving Fresno at 5:00 A.M.,

Visalia at 8:45 A.M., Porterville at 11:25 A.M., Terra Bella at 12: 30 P.M., McFarland at 2:30 P.M., Bakersfield at 4:40 P.M., Los Angeles at 5:00 A.M., service to be daily except Sundays and holidays. A question is raised by the rail carriers whether this schedule can be maintained. We are not satisfied from the testimony that it can be, considering time spent in local pick-ups and deliveries, but apparently it can be approximated.

Mr. Duntley operates over the Ridge Route between Los Angeles and Bakersfield on a 14 hour schedule, which he testifies he can meet without difficulty during cool weather, but that in hot weather it cannot easily be done owing to heat<sup>ing</sup> of the engine, but that a loaded truck should make the trip between Bakersfield and Fresno in 9 hours.

Mr. Hodge testified that applicants propose to operate trailer with each truck, that trucks used over the Ridge Route will probably need additional braking facilities, to be accomplished by widening the brake drums, and will need increased facilities for cooling. Mr. Duntley testifies that from his experience it is not practicable to operate trailers over the Ridge Route without having an extra man to operate brakes on trailers going down the grades.

Mr. Hodge has had several years' experience in truck transportation, and is now operating 17 trucks (Packards, Macks and Pageols), and 15 trailers, with a total capacity of 183½ tons, figuring a 40% overload, handling fresh fruits to canneries in Los Angeles from various points in the adjacent fruit growing territory, and citrus fruits to Los Angeles harbor for ocean shipment. This service, rendered under private contract, is highly endorsed by his patrons. Under contract with Messrs. Mershon and Rose, he agrees to furnish all necessary equipment, <sup>for the proposed line</sup> not exceeding 10 trucks and 10 trailers, and if necessary procure cash or credit to the extent of \$30,000., to be used in establishing the business; all advances.

to be repaid out of the business, Mr. Hodge to manage and control the business and own 70% of any operative right granted by the Commission, the other parties to own 15% each. The pay for the use of the Hodge equipment is to be cost of operation, depreciation, and a percentage to be determined by arbitration. Mr. Hodge subsequently testified that he would furnish all of his present equipment for the proposed line if and when needed.

Time in transit under the present and proposed services has been discussed above, and we show below comparative rates, including drayage rates:

COMPARATIVE RATES - L.C.L. IN CENTS PER 100 LBS.

<u>Between Los Angeles and Fresno</u>					<u>Between Bakersfield and Fresno</u>			
<u>Classes:</u>	<u>1</u>	<u>2</u>	<u>3:C</u>	<u>4</u>	<u>1</u>	<u>2</u>	<u>3:C</u>	<u>4</u>
Truck	187½	160	141½	116½	122½	104	92½	76½
Rail	115½	99	81½	72	58	49	40½	36½
xDrayage	16	16	16	16	17½	17½	17½	17½
xExpress	235	176	146		154	116	96	

  

<u>Between Fresno and Porterville</u>				<u>Between Bakersfield and Porterville</u>				
Truck	80	67½	60	50	69	59	51½	42½
Rail	39½	33	30	25	33	28	25	22
xDrayage	7½	7½	7½	7½	10	10	10	10
xExpress	124	93	86		99	74	72	

xDrayage charges: Los Angeles 8½%, Fresno 7½%, Bakersfield 10%. At Porterville, not in evidence. Minimum drayage charges not in evidence.

Minimum charges by rail and truck lines 50¢, except truck charge between Los Angeles and Fresno is 75¢.

xExpress company gives free pick-up and delivery at all points except Famoso, Ducor, Terra Bella, Strathmore, Farmersville, Goshen and Fowler. "C" in above tables represents its commodity rates.

The proposed service offering free pick-up at ranches within five miles of the highway, and special fast service by through truck on truck loads at two-thirds the published rates is rather a marked departure from the present rail freight service, plus local drayage service in the towns along the railroad, or even the usual



truck service. There appears to be considerable demand for such service for perishables in truck loads making special trips.

Rates proposed for less than truck load service between the different towns on the proposed line, even in free delivery zones, are so much higher than the rail freight rates plus drayage, that there is probably no real competition as to such traffic. Apparently the traffic which would move by the truck line would be that which could afford to pay a much higher rate, in return for certain advantages in the way of service, such as saving of time in transit, saving time in loading (because a truck load is so much smaller than a car load), less handling than by freight or express, less onerous requirements as to packing or crating, practical elimination, in many instances, of delay between the time when goods must be placed with the carrier and the time when transit begins, caused by earlier closing of rail freight houses. There was much testimony showing how the above advantages would benefit various lines of business in the territory in question.

As to fruit movements, it appears from testimony of growers that they can get on the Los Angeles market much quicker by truck, as they can load much faster with less expense in crating and no delay in icing cars, and reach the Los Angeles early markets the following morning with fruit and produce grown in the vicinity of Bakersfield. They claim they can ship riper fruit, better flavored and of increased weight, with less loss through culling of over ripe or bruized fruit, than can be done by rail freight or express with added handling and greater delay in transit. There was also testimony to the effect that in shipping under refrigeration the usual grower would require about three days to load a car and one to ice it, delaying to this extent the time of getting on the market. There was considerable testimony showing that many merchants are carrying smaller stocks of goods than heretofore, buying at more frequent in-

tervals and requiring faster service than by rail freight. On the other hand, there was considerable testimony showing that shippers are satisfied with rail service for those classes of freight in the transportation of which time is not a serious element and where advantage can be taken of the lower rate. Some shippers expressed a personal preference for rail service because of its dependable character, the share of the railroads in developing the country, because it is alleged that truck employes do not patronize local merchants to the extent that railroad employes do, but principally because the reduction in rail tonnage of local freight might result in curtailment of service, particularly in reference to the Southern Pacific merchandise train operating out of Fresno. It will be noticed, however, that the latter service is operated in that portion of the territory immediately south of Fresno which is already well served by truck lines. It is because of this latter situation that the order herein prohibits local service in that portion of the territory.

#### ORDER

Public hearings having been held upon the above entitled application, the matter being submitted and now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by F. M. Hodge, L. E. Mershon and H. A. Rose of an automobile freight truck service between Los Angeles and that portion of the city of Bakersfield lying beyond a radius of 12 blocks from the present Bakersfield terminal of George N. Duntley, doing business under the fictitious name of Los Angeles and Bakersfield Fast Freight Truck Line; also between Los Angeles, and Jewetta, Lerdo, Famoso, McFarland, Delano, Richgrove, Orris, Ducor, Terra Bella, Plano, Porterville, Strathmore, Lindsay, Exeter, Farmeraville, Visalia, Tulare, Goshen, Traver, Kingsburg, Selma, Winedale, Fowler, Calwa City and Fresno, for the common

carriage of property; and that such public convenience and necessity require said applicants to operate automobile freight truck service for the common carriage of property in truck loads at two-thirds of the rates per hundred pounds quoted in Exhibit "A", attached to the above application, between Los Angeles and the territory above described, and also a zone extending five miles on each side of the highway traversed on the route by which the above named towns are served and five miles on each side of the said 12 block radius from the said Duntley terminal in Bakersfield. Public convenience and necessity do not require operation of either of said services between Los Angeles and that portion of Bakersfield within said 12 block radius from said Duntley's Bakersfield terminal, nor do they require any local service between Fresno and Fowler, Selma, Kingsburg, Traver, Goshen, Goshen Junction, Visalia or Tulare, or between any of said points.

Nothing herein contained, however, shall be construed to prevent the transportation of property between points on said route between Fresno and Visalia or Tulare and points hereinabove named on said route lying southerly or easterly from Visalia or Tulare.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

IT IS HEREBY ORDERED that applicants shall, within fifteen days from the date hereof, file with the Railroad Commission their schedules and tariffs covering said proposed service, which shall be in addition to proposed schedule and tariff accompanying

the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this 3rd day of September, 1921.

H. B. ...  
H. ...  
Irving ...

Commissioners.