

ORIGINAL

Decision No. 9490.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of)
KISO YASUNAGA for certificate of)
public convenience and necessity to)
operate Fruit and Produce Service)
between San Jose and Oakland.)
.....)

APPLICATION NO. 6774.

- Kiso Yasunaga in propria persona.
- L. M. Bradshaw, for Southern Pacific Company,
Protestant.
- Edward Storn, for American Railway Express
Company, Protestant.
- Harry A. Eccell, for E. A. Woodward, Proprietor
Oakland and San Jose Express Company,
Protestant.

BY THE COMMISSION:

O P I N I O N.

Kiso Yasunaga 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 fruit and farm produce between San Jose and Oakland and intermediate points.

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

Applicant proposes to operate as a contract carrier of fruit and farm produce by securing shipments in the territory between San Jose and Oakland and particularly at ranches near Santa Clara, Ignews, Alviso, Milpitas, Berryessa and on the highways known as the Alviso and San Jose Road, Trimble Road, Milpitas and Alviso Road, Capital Avenue, Berryessa Road,

McKee Road and the extension of Santa Clara Street, San Jose. Applicant proposes to charge rates in accordance with a schedule marked Exhibit "A" and attached to the application in this proceeding (rates including the free return of empty carriers) and to operate on a schedule of one round trip, daily except Saturday, using as equipment two Packard Trucks, one of 3 1/2 and one of 2 1/2 ton capacity, and one Dodge Truck of 3/4 ton capacity.

Applicant alleges as justification for the granting of the desired certificate:

"The growers of farm products who ship by rail to the local market have suffered loss of considerable money through delay. . . The service proposed will connect the producer directly with the market necessitating only one handling of the goods and without any delay. The trucks call for the produce at the ranch at night and deliver it to the market ready for the morning sales. The applicant is a Japanese and intends to solicit solely among the Japanese farmers, and he has more than sufficient contracts on way now which will prevent him soliciting any more outside work."

Applicant, testifying in his own behalf, stated that at present he has arrangements for collection of fruit and farm produce at five locations at each of which locations from five to six farmers bring their produce for consolidation and shipment. He stated that the Japanese farmers and ranchers that he proposes to serve cannot in many cases understand English and have difficulty in shipping their products to the best advantage and the better prices that accrue from prompt delivery at market. It is the desire of applicant to confine his activities to the serving of Japanese and under contract in a form as submitted to the Commission as an exhibit attached to the application.

The granting of the application is protested by the Southern Pacific Company and the American Railway Express Company. These protestants, through witnesses, directed attention to the service and rates available by the facilities offered by their respective companies. The service of the applicant is distinct from that offered by the protesting rail and express carriers in that shipments of fruit and farm produce are taken direct from the ranches at a late hour in the evening and are then transported directly to the wholesale markets in Oakland, arriving at an early hour and in time for the commencement of the morning sales. The rates proposed are materially lower by reason of free return of empty carriers than those of the American Railway Express Company, which more nearly approximates the service proposed to be given than does that of the protestant, Southern Pacific Company. While a free delivery is made by the American Railway Express Company in the wholesale market district in Oakland, the advantage of free pick-up at the ranches and farms, and at a late hour, is not available.

By stipulation at the hearing, applicant agrees to do no picking up of shipments after leaving Milpitas and will haul no return loads other than empty carriers in which fruits and farm produce have been or are to be shipped.

After careful consideration of all the evidence in this proceeding we are of the opinion that applicant should be granted a certificate which will be restricted in accordance with stipulation made at the hearing and in accordance with the evidence. Applicant has requested permission to serve only Japanese farmers, ranchers and orchardists. The Commission cannot permit discrimination in this regard and if contracts are offered by other than Japanese, applicant will be required to accept same and furnish service at the rates as set forth in the schedule accompanying and forming a part of the appli-

cation in this proceeding.

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 Zico Yacunaga of an automobile truck line as a contract carrier of farm and orchard products only between the territory adjacent to San Jose and Oakland including ranches near Santa Clara, Agnew, Alviso, Milpitas, Berryessa and on the highways known as the Alviso and San Jose Road, Trimble Road, Milpitas and Alviso Road, Capital Avenue, Berryessa Road, McKee Road and the extension of Santa Clara Street, San Jose: provided, however, that no local business shall be done over the portion of the highway between Milpitas and Oakland, the route to be followed between Milpitas and Oakland to pass through the communities of Warm Springs, Irvington, Centerville, Alvarado, Mt. Eden, San Lorenzo and San Leandro; and provided, further, that no shipments other than empty carriers shall be handled between Oakland and San Jose and intermediate points, such carriers either returning empty or being forwarded for the purpose of containing shipments destined Oakland.

The certificate hereby authorized is subject to the following conditions:

- I - Applicant will be required within ten (10) days from the date of this order to file with this Commission a written acceptance of the terms of this order, and within twenty (20) days from the date of this order to file with this Commission, in duplicate, a tariff of rates in accordance with the schedule accompanying the

application herein. Rate schedule to be in accordance with the provisions of General Order No. 51 of this Commission, such General Order insofar as applicable to be a portion of the order herein. Operation under this certificate to be commenced within thirty (30) days from the date of this order and such operation to be continued until the further order of this Commission.

II - Applicant will be required to file with this Commission, within twenty (20) days from the date of this order a copy of the contract proposed with shippers and consignees, and furnish a list of all persons with whom contracts have been made together with their addresses. Applicant will further be required to file a corrected list of contracts at periods of ninety (90) days, such list to show date of cancellation of all contracts and date of execution of new contracts, together with addresses of persons with whom contracts are made or cancelled.

III- The rights and privileges hereby granted may not be assigned, leased, transferred, hypothecated or sold nor operation suspended or discontinued unless the written consent of the Railroad Commission to such assignment, lease, transfer, hypothecation, sale, suspension or discontinuance of operation has first been secured.

IV- No vehicle may be operated under the authority conferred by this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 17^d
day of September, 1921.

H. B. Prudie
H. H. Land
James Martin
Charles H. Powell

Commissioners.