

Decision No. 9912

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 VICTOR F. HANDEKIN and CLINTON LANDIS )  
 for certificate of public convenience ) Application No. 7120.  
 and necessity to operate motor freight )  
 service between Oakland, California, )  
 and Newman, California. )

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- J. R. Cunningham, for Applicants.
  - L. N. Bradshaw, for Southern Pacific Company, Protestant.
  - M. G. Lickteig, for American Railway Express Company, Protestant.
  - Clyde E. Pitney, for Chambers of Commerce of Newman, Patterson, Crows Landing and Tracy, Protestants.

BY THE COMMISSION:

O P I N I O N

Victor F. Handekin and Clinton Landis, partners in business under the firm name and style of Handekin and Landis, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile freight line as a common carrier of merchandise between Oakland and Newman and intermediate points.

A public hearing on this application was conducted by Examiner Handford at San Francisco on December 3, 1921, at which time the matter was duly submitted and is now ready for decision.

Applicants propose to charge rates in accordance with the schedule as shown on the supplemental application filed herein; to operate on a schedule of one round-trip

daily; and to use as equipment three Garford trucks, one of  $3\frac{1}{2}$  tons, one of  $2\frac{1}{2}$  tons and one of 2 tons capacity.

Applicants rely, as justification for the granting of the desired certificate, upon the alleged fact that the present transportation facilities are not sufficient to meet the requirements and convenience of shippers.

The only evidence presented on behalf of applicants was that of Mr. Landis, one of the partners in the proposed enterprise. This witness testified that there was no forenoon service rendered by the Southern Pacific Company between Newman and Oakland and that shipments of dressed veal often spoiled before reaching San Francisco. No testimony was offered indicating that such shipments were spoiled when en route to Oakland which is the terminal proposed to be served by the applicants herein, or as to what arrangements had been made for the inspection of such shipments on arrival at Oakland, such inspection being necessary by reason of ordinances of the City of Oakland requiring inspection of this class of shipments by the representatives of the Health Department. No investigation has been made by the applicants as to the amount of merchandise moving from Oakland to Newman and points intermediate, nor as to the necessity, if any, for additional service beyond that now being rendered by the Southern Pacific Company, The American Railway Express Company and other authorized motor truck carriers serving a portion of the desired route. Applicants have been already operating over the route for which certificate is sought but advance no reason why the illegal operation was commenced or should be continued.

The granting of the desired certificate is opposed by the Southern Pacific Company, the American Railway Express Company and by the Chambers of Commerce of Newman, Patterson,

Tracy and Crows Landing. It is the contention of these protestants that an adequate and satisfactory service is now available for the shipping public for all shipments offered between Newman and Oakland and intermediate points, and that the granting of the certificate herein sought will detract from the ability of the existing carriers to perform the service in which they are now engaged in that no new business is offered or will be developed and that applicants will, if the certificate be granted, merely divert from existing routes business which can be, and has been, carried without complaint.

Careful consideration has been given to all the evidence presented in this proceeding. There is nothing before the Commission other than the desire of the applicants to continue a business in which they are now unlawfully engaged in violation of the provisions of Chapter 213, Statutes of 1917, and amendments thereto. No showing was made as to any desire on the part of receivers of freight at Oakland, or shippers from such point, for the alleged superior service proposed to be rendered by applicants. The Commission has repeatedly stated in its decisions on applications for certificates of public convenience and necessity that the desire of an applicant to enter the business of a common carrier by stage or truck is not an indication of public convenience and necessity, and that applications must be supported by affirmative testimony showing that public convenience and necessity exists to a degree that is not being cared for by existing transportation facilities. No such affirmative showing has been made in this proceeding, and the application must, therefore, be denied.

ORDER

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 do not require the operation by Victor F. Henderkin and Clinton Landis, partners in business, of an automobile truck line as a common carrier of merchandise between Oakland and Newman and intermediate points; and

IT IS HEREBY ORDERED that this application be and the same is hereby denied.

Dated at San Francisco, California, this 23<sup>d</sup> day of December, 1921.

H. B. Rudigg

A. D. Ireland

James Martin

Blundell

J. J. ...  
Commissioners.