

Decision No. 28140

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
AMERICAN MOTOR EXPRESS for an order)
authorizing permission or certifi-)
cate of Public Convenience and)
Necessity to operate a refrigerated)
service on perishable freight only)
as a common carrier between CRESCENT)
CITY, EUREKA, SAN FRANCISCO, OAKLAND,)
STOCKTON, SACRAMENTO, FRESNO, TO LOS)
ANGELES, LOS ANGELES HARBOR, and SAN)
DIEGO and CRESCENT CITY, EUREKA, SAN)
FRANCISCO, SANTA BARBARA, LOS ANGELES,)
and SAN DIEGO, CALIFORNIA.)
Application No. 18371

ORIGINAL

Charles H. Schaeffer, for Applicant

R. F. Brennan and W. F. Brooks, for
The Atchison, Topeka & Santa Fe
Railway, Protestant

Edward Stern, for Railway Express Agency,
Inc., Protestant

H. W. Hobbs, for Southern Pacific Company,
Northwestern Pacific Railroad Company
and Pacific Motor Transport Co., Pro-
testants

Douglas Brookman, for California Motor Express
Co., Protestant

Wallace K. Downey, for Motor Freight Terminal Co.,
Protestant.

WHITSELL, Commissioner:

O P I N I O N

In this amended application H. S. Knutzen, doing
business under the fictitious name American Motor Express,
seeks a certificate of public convenience and necessity for
the transportation of sea foods, fresh and frozen, between

Crescent City and Los Angeles and San Pedro port. Originally the application was filed by V. P. Vurpillat, who withdrew and Knutzen was substituted by permission under an amended offer limiting the transportation to sea foods, instead of all commodities requiring refrigeration including vegetables.

Public hearings were conducted at San Francisco, Los Angeles and San Pedro. Applicant presented thirteen witnesses (seven by stipulation), and protestants eleven (four by stipulation), not including operating witnesses of either, and the matter was submitted and now is ready for decision.

The evidence adduced from the testimony presents conflict between the shippers of sea foods. Some regarded present facilities as inadequate. Others regarded them as not only adequate but incapable of improvement by proposal of applicant. There was sharp conflict as to whether regularity of dependable service - that is, fixed schedules - is more important to the industry than service available only on demand. The preponderance, however, seems to favor regularity of service, such as now exists by rail. In connection with the existing method there was testimony to the effect that shipments of fish from Eureka to Los Angeles, and intermediate points, is endangered by rehandling and delay at San Francisco. Such shipments leave Eureka in the evening, reaching San Francisco the next morning. There is no complaint by San Francisco consignees of this portion of the rail service. In fact, applicant testified that he could not compete with the service (by Railway Express Agency) between Eureka and San Francisco because his rate is 60 cents per 100 pounds, while the express rate is 36 cents. Consideration of this part of applicant's

offer justifies its elimination.

However, fish destined from Eureka to Los Angeles arriving at San Francisco by the same service must be transferred across the bay and meet a delay of 12 hours, approximately, before being transported south. Witnesses of palpable competency testified the rehandling and delay injured the quality of the fish. Equally competent witnesses from Los Angeles testified that this transfer and delay did not injure the fish, unless the fish were handled. As the fish are shipped in boxes, packed in ice and reiced in transit, there is no such rehandling at San Francisco. The boxes are merely loaded in trucks and transported to the express depot at either San Francisco or Oakland and remain there, iced, until the journey to the south. If applicant's proposal means anything, it means that he would, on demand of the shipper, provide equipment of refrigerated trucks to receive such shipments immediately and transport them to destination during the 12 hours they would otherwise wait for evening carriage, but many witnesses say this would be no advantage as night arrival, particularly at Los Angeles, is not desired nor is it of advantage, as the market would still be 12 hours ahead. In this connection the elapsed time in transit, Eureka to Los Angeles, is in point. Rail service requires approximately 36 hours (including the 10 or 12 hours delay at San Francisco.) Applicant proposes a schedule of 29 hours by either coast or valley routes. Between San Francisco and Los Angeles rail service is approximately 14 hours, and applicant's proposed service 17 hours. There was, however, testimony that San Francisco and Los Angeles shippers need such a service for movements made necessary because of Market shortages of certain kinds of fish. Also some fish companies

that have branches at each place might find it useful. There was, even in such testimony, expressed satisfaction with rail service due to its regularity and frequency, and its pick up and delivery at terminals - rail including Railway Express Agency and, since January, the overnight service of Pacific Motor Transport Company by passenger train.

I am satisfied that the fish industry is well provided with transportation facilities now and only a service that is an improvement and capable of replacing these facilities, should diversion of traffic impair them, ought to be considered by any regulatory body. The service now is regular, frequent and seems to meet every requirement. As against this applicant offers, in some degree, rate benefits in exchange for a service that, in my judgment, would be a dangerous experiment.

Applicant is now successfully transporting sea foods from about fifteen heavy shippers of Seattle and Portland and other points in Washington and Oregon to San Francisco and Los Angeles and has been for two years. It was the vehicles furnished by him that were used by V. P. Vurpillat (original applicant) in transporting property in both directions, intrastate, and which service this Commission in Decision No. 25612, in Case No. 3339, found to be illegal and ordered them to cease. Subsequently Knutzen became the applicant. He testified he owned four refrigerator trucks, in addition to 9 trucks leased by Refrigerated Transit, Inc., a corporation formed by him in Washington and that he is financially able to add any necessary equipment. I assume that he could do so

but even if he could, his offer of service, his method of operation and the limitations imposed on both, make it questionable whether any risk of impairing existing service should be taken.

The backbone of his offer is the present interstate service. It enters California at Crescent City and follows the Redwood Highway to Ukiah, thence across Lake County to Williams and thence over highways 99 and 100 to Los Angeles. The intermediate points are Sacramento, Stockton, Fresno and Bakersfield. He proposes to serve them. According to his testimony he expects no business between Eureka and San Francisco and will reach the latter point only by diversion from Sacramento or Stockton, such diversion also serving San Jose, but no other intermediate between San Francisco and Los Angeles. Santa Barbara, according to Knutzen, is to be served from Los Angeles by delivering shipments to the Santa Barbara consignees at Los Angeles, or by reshipment. Thus it appears that applicant proposes to serve about ten points, all on rail, leaving all other service to the existing facilities. San Diego, originally included, was eliminated at the hearings. Monterey and Santa Cruz, important points for the production of fish shipments were never included. Yet all these points, and all intermediates between the Oregon and Mexican lines now have adequate, efficient transportation under ice or refrigeration, with reasonable care, and in as sanitary a manner as is necessary. It is my opinion that to permit an intrusion into these "cream" points only, for access to the profitable tonnage now moving, would jeopardize intermediate points long served by the rail car-

riers. In addition, there is the appearance, gained from applicant's testimony, that he is not prepared to give the service that witnesses testifying for him expect. The service is "on call" only. Under rules Nos. 4 and 46 of the tariff proposed shippers must first "agree" with applicant or his representatives as to intermediate points not shown in tariff. The application of Rule 4 practically excludes all intermediate service and, combined with the tariffs as offered, makes the service difficult to command, especially for small shipments. Applicant will make available the large volume through shipments, leaving other facilities to transport small intermediate consignments.

After carefully considering the entire record I find as a fact that the service proposed by applicant and for which he seeks certificate is not required by public convenience in view of the adequacy of other facilities long serving shippers to all points.

I propose the following form of Order.

ORDER

H. S. Knutzen having made application for a certificate of public convenience and necessity for the establishment of automotive truck service for the transportation of fish and sea foods between Crescent City and Los Angeles and certain intermediate points,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity do not

require the service as proposed by applicant, and

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

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 17th day of July 1933.

C. L. Deane
Leon Deane
M. A. Cunn
W. B. Lawrence
Walter Deane
Commissioners