

Decision No. 25785.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA



In the Matter of the Application of
THE RIVER LINES, (The California
Transportation Company, Sacramento
Navigation Company, and Fay Transpor-
tation Company) for a certificate of
public convenience and necessity au-
thorizing a through common carrier
service for the transportation of
fresh fruits and vegetables (includ-
ing melons) from certain defined
territory tributary to the Sacramento
and San Joaquin Rivers and lying
north of the San Joaquin River and
south of Freeport to San Francisco
and Oakland, by auto truck to boat
landings, thence by vessel.

Application No. 19236.

- McCutchen, Olney, Mannon & Greene, by Allan P. Matthew and F. W. Mielke, for applicant.
- Decoto & St. Sure, by Ezra W. Decoto and Philip Cavaleiro, for Rampone Brothers and W. Dinelli, protestants.
- Edward Stern, for Railway Express Agency, Incorporated, interested party.
- Gwyn H. Baker, for California Inland Water Carriers Conference, as an interested party.
- F. J. Larkin, for Larkin Transportation Company, as an interested party.
- H. W. Hobbs, for Southern Pacific Company and Pacific Motor Transport Company, interested parties.
- L. N. Bradshaw, for The Western Pacific Railroad Company and the Sacramento Northern Railway, protestants.
- L. L. Higgins, for Higgins Transportation Company, interested party.

BY THE COMMISSION:

O P I N I O N

The River Lines¹ in this proceeding are requesting a

¹ The River Lines is the unified operation of The California Transportation Company, Sacramento Navigation Company, and Fay Transportation Company.

certificate of public convenience and necessity to establish an "on-call" service for the transportation by auto truck of fresh fruits and vegetables (including melons) from certain defined territory tributary to the Sacramento and San Joaquin Rivers to San Francisco and Oakland.

A hearing was had at Rio Vista on January 25, 1934, before Examiner Brown. The matter was adjourned to February 9, 1934, for further hearing at Walnut Grove. The facts thus far developed justify a dismissal of the proceeding without further hearing, as the proposed service described below, in so far as it contemplates the use of auto trucks, is radial in nature and not within the certificating jurisdiction of the Commission. (In Re Application of Ben Moore, 27 C.R.C. 388.)

The origin territory which applicant wishes to serve comprises an area of land approximately 25 miles in length, lying in the Delta region of the Sacramento River south of Freeport and north of the San Joaquin River. The land is devoted principally to the raising of fresh fruits and vegetables. Two main highways, one on the west side of the Sacramento River and the other on the east side of the river, traverse the Delta. A multitude of lateral and parallel roads reach the farms and ranches along the river. The River Lines propose to use Rio Vista as a concentrating point, with trucks daily gathering the fresh fruits and vegetables from the ranches located in the origin territory. No regular routes will be followed, nor will there be any fixed termini other than Rio Vista. The trucks will be operated from and to the ranches as occasion demands, commencing to gather the produce at approximately 6 o'clock in the evening and hauling steadily until the fruits and vegetables are concentrated at Rio Vista.² At Rio Vista the vessels of The River Lines

² If the volume of traffic is sufficient additional concentration points will be established at Isleton and Walnut Grove.

will transport the traffic to San Francisco and Oakland. The empty containers will be returned to Rio Vista by vessel and distributed to the farms and ranches by truck.

O R D E R

IT IS HEREBY ORDERED that the above entitled proceeding be and it is hereby dismissed for lack of jurisdiction.

Dated at San Francisco, California, this 6th day of February, 1934.

Leon Q. Whitwell

W. J. Carr

Commissioners.

I CONCUR. It appears from the facts here of record that the service proposed by The River Lines is not of the character which the Commission could certificate, as applicant is not proposing to operate between fixed termini or over regular routes. However, this should not be construed as my approval of the Ben Moore decision. In that proceeding Ben Moore held himself out to transport general freight, including farm and factory products, between each and every point within a radius of 75 miles of Sanger, and to this extent he definitely established his fixed termini.

M. B. Harris

WE DISSENT. The Ben Moore decision is based upon an erroneous interpretation of the Auto Truck Transportation Act. A radial operator undertaking to serve a defined area within a certain radius of a given point has in effect named as his "fixed termini" every point situated within said area. And the very nature of his operations compels him to operate over more or less the same routes, which though they be infrequently used, nevertheless become regular routes as we think that term is defined in the Act.

CC Seavey
McArthur,