

Decision No. 27745

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CLAYTON L. CONROW for a certificate of
public convenience and necessity to
operate a seasonal transportation service
by auto truck for transporting of vegetables,
fruits, and farm products and necessities
as a common carrier between points in Santa
Barbara and San Luis Obispo counties, on the
one hand, and San Jose, San Francisco and
Oakland, on the other hand, and to operate
such service between certain points in San
Luis Obispo county, on the one hand, and Los
Angeles, on the other hand, and intermediate
points.



Application
No. 19774

Harry A. Encell, for Applicant.
E. W. Hobbs, for Southern Pacific Company and
Pacific Motor Transport Company.
Edward Stern, for Railway Express Agency, Inc.
Wallace K. Downey and W. W. Mc Kee, for Motor
Freight Terminal Company.
Douglas Brookman, for Valley and Coast Transit
Company, and Valley Express Company.
Chas. Grundell, for Pacific Coast Railway Co.

BY THE COMMISSION -

OPINION

Clayton L. Conrow has made application for a certificate of public convenience and necessity to transport, "on call," vegetables, fruits and farm products and necessities, as a common carrier, between certain points in Santa Barbara and San Luis Obispo counties on one hand, and San Jose, San Francisco and Oakland on another hand and between points in San Luis Obispo and Santa Barbara counties and Los Angeles on another hand.

A public hearing herein was conducted by Examiner Williams at San Luis Obispo.

At the opening of the hearing applicant stipulated with protestants that no traffic of any description will be transported where the origin or destination of traffic is at points

within three (3) miles of the depot of rail lines of Southern Pacific Company, Pacific Coast Railway Company and Santa Maria Valley Railway Company in Santa Barbara and San Luis Obispo counties; that the only traffic proposed to be transported is that traffic set out in the application and only when the origin and destination are at points not served by the rail lines, the Railway Express Agency, Inc., and the Pacific Motor Transport Company in Santa Barbara and San Luis Obispo counties; and, further, that lumber would be eliminated as a commodity to be transported; that the term "feed," as set forth in Exhibit "A", will be confined to animal and poultry feeds; that the term "fertilizer" will be limited to farm fertilizer, in sacks, namely, guano, sulphur (unrefined) live poultry fertilizer, nitrates, bone meal and sulphur. It was further stipulated with Valley & Coast Transit Company that applicant will not transport southbound from San Francisco and San Jose any commodity other than empty hampers. The stipulations were accepted by all protestants and by the applicant.

Applicant in his testimony stated that he had been operating in and about Arroyo Grande, in both Santa Barbara and San Luis Obispo counties since 1929. The area he seeks to serve is quite a large producer of lettuce, peas, carrots, artichokes and other vegetables. Most of the crops are delivered at Los Angeles. In March and April of 1934, applicant testified his transportation amounted to 150 tons a day. The service applicant has been giving was questioned in Case No. 3561, and by Decision No. 27348, dated September 11, 1934, therein, he was ordered to cease and desist all service. Most of the service he renders to farms and ranches over a very wide area is remote from rail connections and, while the order to cease and desist was in response to complaints of other carriers, they all agreed in the stipulation that the service he now proposes, as modified, will not injuriously affect their oper-

ations. Particularly, is this true with reference to the zones around railroad stations where the existing services of the rail carriers are protected from invasion. Applicant is an experienced truckman and has available three trucks and two trailers which he owns, and has twelve other trucks available for leasing during the apex of the harvest.

Applicant was supported by the testimony of John L. Harris, of Harriston, who has six hundred acres under intensive farming, two hundred acres of which are in vegetables, such as applicant proposes to transport. Mr. Harris testified that Conrow's service had been adequate and efficient. Similar testimony was given by J. W. Shannon of Arroyo Grande, operating one hundred ten acres, whose harvest goes to both Los Angeles and San Francisco, and Elmer A. Runels, of Arroyo Grande, operating thirty acres. Other witnesses, who testified in support of applicant, were O. Taylor, William Poole, Joseph Fialho, Fred Marselek, S. Cecchetti, Griebs Brothers, W. Moore, S. Ferraro and a number of others. The application was also supported by E. L. Noyes, Director of the Farm Center, at Arroyo Grande.

Applicant agreed to amend his rates in consistency with the stipulations entered into with protestants.

Applicant did not definitely fix the area and routes which he is to serve, nor is the service to be scheduled, - being conducted principally in the spring months when the crops are being gathered. It is apparent that no detailed description of the exact routes and points to be served may be provided without great delay and a general description as set forth in the order, we think, will be sufficient.

The application will be granted.

Clayton L. Conrow is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive

aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

Clayton L. Conrow having made application for a certificate of public convenience and necessity, as above entitled, public hearing having been held and the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation of automotive "on call" service for the transportation of all the commodities listed in applicant's Exhibit "A", (as herein modified), attached to the application herein, between San Luis Obispo, Morro Bay, Pecho, Edna, Pismo Beach, Oceano, Arroyo Grande, Berros, Nipomo, Osoflaco, Guadalupe, Santa Maria, Harriston, Goleta and Summerland, on one hand and Los Angeles on the south and San Jose, San Francisco and Oakland, on the north, with the right of pickup and/or delivery at any point not more than ten (10) miles east of Highway No. 101, and only between Summerland and San Luis Obispo, or for the distances between said highway and the Pacific ocean between Summerland and San Luis Obispo only, subject to restrictions, limitations and conditions hereinafter imposed, in the following manner:

Southbound -- All commodities, except lumber, whose point of origin or destination is north of Summerland and south of the north line of San Luis Obispo city and, in reverse movement, from Los Angeles to the same area.

Northbound -- All commodities, except lumber, whose point of origin or destination is south of the north line of San Luis Obispo city and north of Summerland, and by diversion to Morro Bay

and Cayucos, except that nothing other than empty hampers may be transported southbound from San Jose, San Francisco and/or Oakland, provided that certain commodities as named in the tariff shall be defined and limited as follows:

Feed -- only animal and/or poultry feeds.

Seeds -- only garden and/or vegetable seeds.

Fertilizer -- in sacks, viz: guano, sulphur (unrefined), live poultry fertilizer, nitrates, bone meal, - and over and along the following routes:

Between Los Angeles and San Jose and San Francisco, via Highway No.101, and between San Jose and Oakland, via Highway No.101-E.

Between San Luis Obispo and Morro Bay and Cayucos, via County highway.

Between all other points east or west of said Highway 101, as herein limited, via shortest available county roads, and

provided, that applicant may not transport any commodities from Los Angeles to San Jose, San Francisco or Oakland and vice versa, either through or by transfer.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to

Clayton L. Conrow therefor, subject to the following conditions:

1. No shipment will be received or transported where the origin or destination of traffic is at points within three (3) miles of the depots of the rail lines of the Southern Pacific Company, Pacific Coast Railway Company and Santa Maria Valley Railroad Company, and only when the origin or destination may be at points not served by the rail lines, Railway Express Agency, Inc., and Pacific Motor Transport Company.

2. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof, stipulating therein that the certificate is accepted subject to all the restrictions above imposed and with the understanding that the rates authorized herein shall be the rates for all movements conducted by applicant from any point of pickup or delivery which he may make, nearest the rate point set forth in the application, and that no other charge shall be made than the proper charge due to the proximity of the rate point.

3. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be satisfactory to the Railroad Commission.

4. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

5. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 11th day of February, 1935.

Leon Overman

M. J. Carr

M. B. Lanning

A. B. Moore

6. Frank P. Deven
COMMISSIONERS.