

Decision No. 28186

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SUN TRANSPORT COMPANY, a corporation,
Complainant,

vs.

GREGORY G. PANOPULOS, also known as
GEORGE GREGORY, JOHN DOE, RICHARD
ROE and JOHN DOE CORPORATION,

Defendants.

Case No. 3983.

ORIGINAL

In the Matter of the Application of
GREGORY G. PANOPULOS for a certifi-
cate of public convenience and
necessity to continue operating as a
common carrier the automotive truck
service now being operated by him
as a private contract carrier between
Los Angeles, Montebello, El Monte,
Baldwin Park, Monterey Park, Whittier,
Pico, Downey, Compton, Lynwood and
intermediate points.

Application No. 19951.

Clarence G. Weisbrod and W.N. McAdam, for Applicant.

Richard T. Eddy, for Sun Transport Company, Protestant.

W. C. Snyder, for Cecil E. Snyder, Protestant.

Hugh Gordon, for California Milk Transport, Joe
Bozoff, Richards Trucking & Warehouse Company,
Richards Express, Protestants.

H. J. Bischoff, for Southern California Freight
Lines, Protestant.

Phil Jacobson, for Dairy Delivery Company, Protestant.

Elmer Ahl, for Keystone Express System, Protestant.

BY THE COMMISSION:

O P I N I O N

Sun Transport Company, a corporation, complainant herein,
alleges that defendant, Gregory G. Panopulos, is conducting

transportation of milk, cream, and dairy products between Puente and El Monte, and the vicinity of each, and Los Angeles, without having first procured from this Commission certificate of public convenience and necessity or other authority so to do. Defendant's denial was based upon absence of common carrier status of defendant.

Upon the issues joined the public hearing was conducted by Examiner Williams at Los Angeles on May 16, 1935, at which time the matter was submitted. Just before this hearing defendant Panopulos filed his application (May 8, 1935), seeking a certificate of public convenience and necessity covering the service he is alleged to have given by complainant. This application was set for hearing June 7, 1935, and submission of the case was set aside and further hearing ordered in connection with the application. Both matters were completed on June 7th and submitted for decision. The record and the admissions of Panopulos show that he did transport milk from various farms in and about Puente and El Monte, and also in the neighborhood of Compton, to the Associated Dairies, a creamery located in Los Angeles. Defendant transported to it the product of twelve or fourteen producers east of Los Angeles and frequently from the region of Compton, and was paid by the creamery at the rate of ten cents a can, empty cans being returned without charge. The volume was not large, seldom exceeding 100 cans. In addition defendant transported, infrequently, surplus milk from the Associated plant to the Challenge Creamery, another processing plant located in Los Angeles.

Defendant explained on the witness stand that he had undertaken the contract with the Associated Dairies and had been paid on the per can basis of ten cents during the eight

months he had been transporting milk, by the creamery. He further testified that until he had attended a hearing in another similar proceeding at Los Angeles, he had not been aware that the charges per can which were paid to him were charged back to the producer of the milk, and that when this became clear to him he immediately sought legal advice and filed his application for a certificate. Defendant's statement in this respect is supported by the testimony of Anthony Aroney operating Associated Dairies, who testified that he did not tell defendant he intended to collect the transportation from the producers until the defendant asked him about it some time in May.

Applicant produced a number of witnesses in support of his request for a certificate to continue the business he had thus established. Six of the producers who had been shipping by applicant's truck testified as to their need of the service, for the reason, largely, that other carriers serve more than one creamery and could not give the attention and dispatch necessary to make deliveries with equal promptness at the Associated Dairies. In addition the testimony of three other witnesses was stipulated.

Applicant has been operating as a servant of the shippers to the Associated Dairies, and has performed service for some shippers in the Hynes area and the Compton area. The record does not support any destination for any commodity he may be authorized to transport, except to the Associated Dairies, hence if a certificate is granted making his destination in Los Angeles only the Associated Dairies, he should be permitted to include such of their shippers as may be in the Hynes and Compton areas and other areas applied for. While all of these areas are served by other carriers the service as conducted does not

appear to be as direct and rapid as the service heretofore performed by applicant with this particular creamery. The record leaves no doubt as to the good faith of this applicant in undertaking service many months ago under the belief that he was employed by the creamery. The situation justifies condonation. Having built up this business which the shippers patronizing him wish continued, he now seeks to give it the stamp of legality and it appears that he has taken every step responsive to a sense of real duty as promptly as he knew the situation.

In view of this conclusion the complaint will be dismissed.

O R D E R

Gregory G. Panopulos having made application for a certificate of public convenience and necessity to establish automotive truck service for the transportation of milk, cream and dairy products between El Monte, Compton, Montebello, and other points, and Los Angeles, and a public hearing having been held, and the matter having been duly submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the establishment of automotive truck service for the transportation of milk in ten gallon cans, or bottled cream in cases, between Baldwin Park, Compton, Downey, El Monte, Lynwood, Montebello, Monterey Park, Pico, Whittier and Los Angeles, over and along the following routes: Over the routes shown in red and blue on the map attached to the application, provided that the applicant shall immediately file detailed statement of such routes by properly designated highways, and three miles on each

side of said routes; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same is hereby granted to Gregory G. Panopoulos, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within fifteen (15) days after the date hereof, stipulating in said acceptance that the certificate granted is limited to the transportation of milk and cream from the territories and over the routes indicated, and further limited to such milk and cream as may be destined solely to the Associated Dairies, 945 Hemlock Street, Los Angeles, California, and to no other destination.

2. 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 identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.

3. 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.

4. 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.

5. 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.

IT IS HEREBY FURTHER ORDERED that Case No. 3983 herein be and the same hereby is dismissed.

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 26th day of August, 1935.

Leon A. Whalley

W. A. Cunn

M. H. ...

James R. ...

COMMISSIONERS.