

Decision No. 31663

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
T. W. LAIRD, d.b.a. KLAMATH FALLS-
MALIN FREIGHT LINE, for certificate
of public convenience and necessity
to operate a common carrier fixed
termini freight service between Tule
Lake, California and Alturas, California.

Application No. 22137

T. W. LAIRD in propria persona

F. X. VIERRA for Southern Pacific Company, protestant
and Pacific Motor Trucking Company, interested
party.

HARRY A. ENCELL for O. C. and N. Stages, Inc. and
Redding-Alturas-Lakeview Stages, protestants

BY THE COMMISSION:

O P I N I O N

This is an application by T. W. Laird, an individual, operating under the fictitious name and style of Klamath Falls-Malin Freight Line, for authority to establish and operate an automotive service as a highway common carrier between Tule Lake and Alturas and intermediate points.

A public hearing in this matter was had before Examiner McGettigan in Alturas on November 17, 1938 where testimony was taken, exhibits received, the matter submitted on briefs and it is now ready for decision.

The granting of this application was protested by Southern Pacific Company, O. C. and N. Stages, Inc., and Redding-Alturas-Lakeview Stages. Pacific Motor Trucking Company appeared as an interested party.

Witness Laird, testifying in his own behalf, stated that, for approximately two years, he has been engaged in the trucking business as an interstate operator between Klamath Falls, Oregon and Tule Lake in California and intermediate points.

Applicant alleges that in July 1938 he was awarded a contract to transport the United States mail between Tule Lake and Alturas and to augment the revenue received therefrom and because he believed that a public need existed, conceived the idea of applying for a highway common carrier certificate between the termini he served as a mail operator.

This witness stated that he was familiar with the present daily rail and automotive service now being rendered between Alturas and Tule Lake and that his particular contention went to what he termed the "excessive rates" charged by these carriers and not to the inadequacy of their services.

In connection with applicant's tariff structure, it was shown that the rates proposed therein were in many instances considerably lower than those prescribed as minimum by the Commission in Decision No. 30370.

The survey of the territory made by this applicant developed little more than the fact that he had contacted several shippers at different points and that they had intimated they would use the service primarily because of the lower rates he offered. In addition, several public witnesses testified in his behalf. Aside from generally stating that they believed the service to be a convenience and that they would use it if authorized, these witnesses gave no substantial indication that the proposed service was necessary, nor, aside from the "low rate" factor, that the existing services were not sufficiently adequate to meet their needs for public truck transportation.

During the course of the hearing it was developed also, that in addition to serving between the points enumerated, applicant also desired to serve the area within a ten mile radius of Tule Lake but the record is silent as to any proof of public need for this service. An area with such a radius would include a section of the state of Oregon.

Applicant Laird, according to the record, is primarily engaged in interstate commerce and the transportation of the United States Mail. The intrastate service he now proposes would be incidental to such primary services. This was evident throughout the proceeding, in applicant's frequent reference to interstate movements. Also, he will be bound by set mail schedules and faces the possibility of heavy mail movements which may entail additional transfer time, as well as delay in mail train connections, all of which indicate that the proposed intrastate service may well be reduced to a comparatively minor position in this carrier's operations. Applicant failed to show, in view of his mail commitments, that he could materially improve on or equal the daily service now being rendered between Tule Lake and Alturas by O. C. and N. Stages, Inc. which the record shows is now operating at less than half capacity of its cargo facilities. No evidence was introduced to show any new business or additional tonnage in prospect in this territory indicating that an additional service would necessarily have to divert existing tonnage from carriers now in the field. In fact, applicant's showing is based largely upon his contention that he can offer transportation at a lower rate than those prescribed by the Commission in this area.

The sparsely settled territory through which this applicant proposes to operate is devoted chiefly to lumbering, stock raising and the growing of potatoes and alfalfa. Outgoing tonnage from the Tule

Lake District consists, for the most part, of these commodities while incoming shipments are made up of the necessary every day commodities needed by citizens of the various communities in this section of country. The record is silent as to the amount of outgoing tonnage available and figures on incoming tonnage reveal rather meagre shipments to some points and none at all to others.

Stripped of its predominately interstate complexion, the record reveals little save a desire on the part of the applicant herein to engage in the automotive transportation of property, intrastate, between the points enumerated in his application as an adjunct to and in conjunction with his mail route activities. While such a desire is not ill founded in itself, it cannot be made the sole basis for the issuance of a certificate of public convenience and necessity, but must be supplemented by, and complementary to a conclusive showing of public convenience and necessity for the transportation of property, other than the mails, between the points set forth in the application. This applicant, based on the record, has failed to sustain the burden of proof required for the conclusive showing referred to. The presence in this territory of two carriers rendering service, between them, to all the points involved and a third carrier serving one or more of these points, which services have been shown to be reasonably adequate in the main when considered with applicant's own showing, preclude other than a negative finding for the applicant.

O R D E R

A public hearing in this matter having been had, the matter duly submitted and the Commission now being fully advised

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1. Southern Pacific Company and O. C. and N. Stages, Inc.
 2. Redding-Alturas-Lakeview Stages.

in the premises,

IT IS HEREBY ORDERED that the above entitled application of T. W. Laird, operating under the name and style of Klamath Falls-Malin Freight Line, be and it is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 16th day of January, 1939.

Robert W. Quinn
George W. Quinn
W. H. Quinn
Justice J. Quinn
COMMISSIONERS