

Decision No. 32295

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SPECIAL SERVICE TRANSPORTATION
CORPORATION, LTD., a corporation,
for Certificate of Public Convenience
and Necessity to operate an express
and Special Messenger Film Service
for transporting motion picture films
and film accessories between Los
Angeles, Santa Maria, Arroyo Grande,
Pismo Beach, San Luis Obispo,
Atascadero, Lompoc, and Guadalupe.

Application No. 22595

ORIGINAL

WAGY and HULSY, by PHILIP M. WAGY
and PHIL JACOBSON for Applicant

G.S. REED and EDWARD STERN by
EDWARD STERN for Railway Express
Agency, Inc., Protestant

F.X. VIEIRA for Southern Pacific
Company and Pacific Motor Trucking
Company, Protestants

BY THE COMMISSION:

O P I N I O N

This is an application by Special Service Transportation Corporation Ltd., for authority to establish and operate an automotive service as a highway common carrier between Los Angeles and Atascadero and the intermediate points of Lompoc, Santa Maria, Guadalupe, Arroyo Grande, Pismo Beach and San Luis Obispo, via U.S. Highway 101, limited to the transportation of motion picture films and film accessories; such as advertising matter, programs, carbons and tickets. Applicant proposes to transport these commodities between film exchanges located in Los Angeles and theatres and other places where motion pictures are exhibited in Atascadero, Lompoc, Santa Maria, Guadalupe, Arroyo Grande, Pismo Beach and San Luis Obispo, and further requests an

alternate route via U.S. Highway 99 ⁽¹⁾ and State Route No. 166 via Maricopa to Guadalupe.

Public hearings in this proceeding were held before Examiner McGettigan in San Luis Obispo on June 7th and in Los Angeles on June 8th and 21st, 1939, where testimony was taken, exhibits received and the matter submitted on concurrent briefs duly filed with the Commission and is now ready for decision.

Appearing in protest to the granting of this application were Railway Express Agency, Incorporated, Southern Pacific Company and Pacific Motor Trucking Company.

Applicant's General Manager, Nick Gombos testified in this matter as did eight public witnesses including five theatre operators at the various points to be served and two film brokers from Los Angeles. The remaining witness for applicant was C.G. Anthony who testified with respect to the cost of the operation proposed. The testimony of an additional witness was stipulated.

For protestant Railway Express Agency, Incorporated, the testimony of G.E. Reed, its Route Agent in the territory involved herein, was introduced into the record.

The basis of applicant's petition for the operating authority herein sought rests upon several factors directly connected with practices of the motion picture industry. Among these factors are:

- A. The prohibitive cost of producing motion picture prints, estimated at \$350 for the average full length feature, thus limiting the number of individual prints made and necessitating that a high use factor be employed to satisfy the demands of the trade.
- B. The rapid depreciation of the box office appeal of films due principally to the fact that they are advertised intensively on a national basis before, and a short time after the release, necessitating

(1) Present certificated route to Bakersfield

that the exhibitor endeavor to show films as soon after release as possible.

- C. The necessity upon exhibitor and producer alike to so arrange film showings as to cut to a minimum the number of days when a film is not being screened.

These peculiarities of the motion picture business, which may be said to sell and resell its commodity over and over again has led to the developement, in several parts of this state, of specialized trucking services devoted exclusively to the transportation of motion picture films and some accessories, designed to reduce to a minimum the time in transit of the products between exchanges, on the one hand, and exhibitors, on the other.

It is this type of transportation that applicant is now before the Commission seeking authority to perform.

Applicant, Special Service Transportation Corporation, Ltd., is now and has for some years past, been engaged in the transportation of films and certain accessories between Los Angeles and Bakersfield and Taft, and between Los Angeles, on the one hand, and Buttonwillow, Lancaster, Tehachapi and Mojave, on the other hand, as a highway common carrier under certificates of public convenience and necessity. Additionally, this applicant transports, under oral contract with the Los Angeles Examiner, that company's newspapers from Los Angeles to a number of points in this state including those named in the instant application.

Under its proposal, applicant corporation will render a daily service in accordance with the following schedule:

1. REGULAR DAILY RUN - Los Angeles North

Leave Los Angeles	11:45 P.M.
(Saturday Only)	
* Leave Los Angeles	10:30 P.M.
Arrive Santa Maria	4:30 A.M.
Arrive Guadalupe	4:50 A.M.
** Arrive Lompoc	5:00 A.M.
Arrive Arroyo Grande	5:10 A.M.
Arrive Pismo	5:25 A.M.
Arrive San Luis Obispo	5:45 A.M.
Arrive Atascadero	6:10 A.M.

II REGULAR DAILY RUN - South to Los Angeles

Leave Atascadero	12:35 A.M.
Arrive San Luis Obispo	1:05 A.M.
Arrive Pismo	1:30 A.M.
Arrive Arroyo Grande	2:00 A.M.
Arrive Guadalupe	2:30 A.M.
Arrive Santa Maria	3:00 A.M.
Leave Santa Maria	4:30 A.M.
Arrive Lompoc	5:00 A.M.
Arrive Los Angeles	9:00 A.M.

* On Saturday, a special truck leaves Los Angeles later than the scheduled run, in order to pick up films playing late Saturday night in Los Angeles, for delivery to northern points. This truck has no fixed time of departure, as it waits as long as necessary, usually until after midnight. Its arrival times at points served are also necessarily irregular.

** Lompoc cargo is transferred to South bound truck at Santa Maria, pickup and delivery made at same time at Lompoc.

Nine theatres including one each at Atascadero, Pismo Beach, Arroyo Grande, Lompoc and Guadalupe, and two each at San Luis Obispo, and Santa Maria are proposed to be served.

Rates are to be assessed on a flat weekly basis contemplating three complete changes of program which appears to be the average number of changes in this area. For a lesser number of complete changes, a percentage of the full weekly charge will be assessed, i.e. 40% of full weekly charge for one change, and 70% of such charge for two changes. Anything less than a complete change will be charged for on a basis of 25% of the charge for a single complete change.

Basically, this proposed service, according to the witness Gombos, will consist of a pickup and delivery service from and to the Los Angeles exchanges to be performed by the Shontz Film Delivery Service in Los Angeles. This company will deliver film shipments to applicant at its Los Angeles terminal where said shipments will be consolidated and held for departure from that city shortly before midnight. Up to the time of departure applicant's equipment will be available for other night film shipments from Los Angeles. It is proposed to complete the daily Los Angeles pickup by 5 PM, the closing hour of the exchanges, and also to provide, on Saturday only, a special truck departure at a later hour than the scheduled run to pickup those films playing late Los Angeles shows for which early week out-of-town commitments have been made. As a further service applicant will check the films and supplies against the individual exhibitors' list furnished to him by the exhibitors and will rectify mistakes and errors which may have occurred. Applicant's drivers will have a key to each theatre and will pickup and return the "old show" at the time of delivery of the new film.

The record in this proceeding indicates that a need exists for

a service such as here proposed, particularly at the points of Atascadero, Pismo Beach, and Arroyo Grande. It is less evident at Guadalupe and Santa María, although some inconvenience has been experienced at these points. As to Lompoc and San Luis Obispo, no particular need is evident. Exhibitors at these points have no complaint of existing services. Much more difficulty was experienced by exhibitors in returning of films than in the receiving of them, primarily because of the difficulties attendant upon arranging for pickup of films after final evening shows (usually at a late hour in the evening,) necessarily required by the theatre owners. Lack of Sunday pickup and delivery service at certain points also created difficulties. This, it is averred, will be eliminated under applicant's proposal to not leave Atascadero until 12:35 midnight with correspondingly later pickups along the line. The truck will arrive in Los Angeles at 9:00 A.M. with delivery of films to exchanges taking place shortly thereafter.

The essence of the transportation difficulties experienced by theatre operators in this area is caused through the desirability and practical necessity of effecting "close bookings" of currently popular films. In order to take full advantage of both of these factors, it is necessary for the exhibitor, according to the record, to satisfy the exchanges that exceeding promptness would be exercised by them in the return of films, usually within twenty-four hours after showing. To attain this end, various expedients, including throwing cans of film into moving express cars, and late night drives of considerable distances by private car from the points named in the application to main transportation points, have been resorted to by these exhibitors.

The chief value of applicant's proposed service rests in the fact that it will relieve the theatre owner of the responsibility of getting his films to and from his theatre and the exchanges. The late night and very early morning pickups proposed by applicant at the points proposed to be served will remove the chief transportation worry of these exhibitors. In this particular instance it appears to be the only means whereby the shipping and receiving public, as represented herein, may be accorded a service to fit their needs.

As previously stated, applicant made no showing for the need of this service at Lompoc and San Luis Obispo. Nor was any showing made as to the need for service over the alternate route nor to other than the motion picture theatres themselves although in its application Special Transportation Corporation, Ltd., sought the right to serve churches, schools and other places where motion pictures were exhibited.

The record indicates that the theatre owners and exhibitors are in need of a service which apparently is not capable of performance, on a commensurate basis, by existing carriers in this territory due to the insufficiency of tonnage involved and certain other inherent difficulties. Furthermore, a limited certificate, if granted to applicant to points named in his application, with the exception of San Luis Obispo and Lompoc, would not appear to have an inimical effect on other means of transportation or adversely affect the public interest. Indeed, the amount of revenue applicant will receive from this traffic is comparatively small. Standing alone, it is insufficient to pay the applicant's cost of operation. However, applicant now has an oral contract

(2) The estimated revenue will be approximately \$100 per week or \$5200 per year.

with the Los Angeles Examiner for the distribution of newspapers along the route and to the points involved in this application. The revenue obtained from this source is about \$18,500 per year. The combined operations will be profitable to applicant.

Based upon the above findings, the application will be granted insofar as it involves service from and to Los Angeles, on the one hand, and Atascadero, Pismo Beach, Arroyo Grande, Santa Maria and Guadalupe, on the other hand, and will be denied in all other respects.

Special Service Transportation Corporation, Ltd., 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

The above entitled application having been duly heard and submitted, the matter being ready for decision, and the Commission now being advised in the premises:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Special Service Transportation Corporation, Ltd., of an automotive service as a highway common carrier as such is defined in section 2 3/4 of the Public Utilities Act between Los Angeles, on the one hand, and Atascadero, Pismo Beach, Arroyo Grande

Santa Maria and Guadalupe, on the other hand, limited to the transportation of motion picture films and film accessories such as advertising matter, programs, carbons and tickets, subject to the restriction that such commodities must originate at, or be destined to, film exchanges only, in Los Angeles, and motion picture theatres only, in Atascadero, Pismo Beach, Arroyo Grande, Santa Maria and Guadalupe.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Special Service Transportation Corporation, Ltd., subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad 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 and rules 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 Railroad Commission and the public, a time schedule or 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 obtained.
5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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

Dated at San Francisco, California, this 1st day of

August, 1939.

Raymond J. [Signature]

[Signature]

[Signature]

Justus J. Coenen
COMMISSIONERS