

Decision No. 22856

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
COAST LINE TRUCK SERVICE, INC., a
corporation, for the certificate of
public convenience and necessity to
operate a motor truck service, as a
common carrier, for the transporta-
tion of fresh field and orchard prod-
ucts between points described, in the
territory between the northern Cal-
ifornia and southern California
territories, more particularly des-
cribed herein, as an enlargement of
its present certificate of public
convenience and necessity.

ORIGINAL

Application No. 22856

CARL R. SCHULZ and HUGH S. CENTER, for applicant
Coast Line Truck Service, Inc.

DOUGLAS BROOKMAN and FRANK M. CHANDLER by Douglas
Brookman, for Valley and Coast Transit Comp-
any, Coast Line Express, California Motor
Transport, Ltd. and California Motor Express,
Protestants.

REGINALD L. VAUGHAN, for Clark Bros., Pacific
Coastwise Conference and Santa Cruz Motor
Express, Protestants.

EDWARD STERN and R. S. ELLIOTT, by Edward Stern,
for Railway Express Agency, Incorporated,
Protestant.

ANSEL S. WILLIAMS, JR., for Southern Pacific
Company and Pacific Motor Trucking Company,
Protestants.

WARE and BEROL by Thomas J. Buckley, for Valley
Motor Lines, Inc. and Valley Express Co.,
Protestants.

JOS. ROBERTSON, for Highway Transport, Inc.,
Interested Party.

BY THE COMMISSION:

O P I N I O N

By this application, as originally filed, Coast Line
Truck Service, Inc. sought authority to establish and operate an

automotive service as a highway common carrier, for the transportation of fresh field and orchard products northbound from Los Angeles to San Francisco, Oakland, San Jose, Salinas, Watsonville, Santa Cruz and intermediate points, and southbound from points and places between San Francisco, Oakland and Greenfield, as more particularly set forth below and described as Northern California Originating Territory, to Los Angeles as an extension and enlargement of its existing rights and consolidated therewith. On the southbound movement, applicant proposes to make pickups off the main highways within the originating area described at such places as are readily accessible to applicant's equipment.

Public hearing in this application was had before Examiner McGettigan at San Jose on October 11 and 30, at Los Angeles, October

(1) Northern California Originating Territory:

- a. All points and places on and within three miles laterally of State Highway No. 1, from and including San Gregorio, California on the north, to and including Carmel, California, on the south; also
- b. All points and places located on and within three miles laterally of the main road between Castroville and Salinas; also
- c. All points and places from and including San Francisco on the north, to Greenfield on the south, both inclusive, via United States Highway No. 101, including all points and places south of San Francisco on the so-called Bayshore Highway to San Jose, California, or on the so-called El Camino Real to San Jose; also points and places within three miles laterally on either side of said highway.
- d. All points and places on and within three miles laterally of State Highway No. 17 from San Jose, California, to San Leandro, California, both inclusive; also
- e. All points and places on and within three miles laterally of the highway extending from Warm Springs, California, to San Leandro, California, via Niles and Hayward, California.
- f. All points within a ten mile radius of San Jose.

23 and 24, and on November 8 at San Francisco, where the matter was submitted and it is now ready for decision.

Appearing in protest to the granting of this original application were Valley and Coast Transit Company, Coast Line Express, California Motor Transport, Ltd., California Motor Express, Clark Bros., Pacific Coastwise Conference, Santa Cruz Motor Express, Railway Express Agency, Incorporated, Southern Pacific Company, Pacific Motor Trucking Company, Valley Motor Lines, Inc. and Valley Express Company. Highway Transport, Inc. appeared as an interested party.

During the course of the hearings in this matter, a series of amendments to the original application were made, as a result of which, Railway Express Agency, Incorporated, Clark Bros., Pacific Coastwise Conference, Santa Cruz Motor Express, Inc., California Motor Transport Ltd., California Motor Express, Valley and Coast Transit Company, Coast Line Express, Southern Pacific Company and Pacific Motor Trucking Company withdrew their protests to the granting of this application, as amended, thus leaving only the Valley Motor Lines, Inc. and Valley Express Company as protestants to the amended applications.

By virtue of these amendments, applicant's original request for a general certificate to transport produce was materially restricted as is hereinafter shown. The amended application provides for the operation of a highway common carrier service for the transportation of fresh fruits and fresh vegetables, with certain exceptions, both as to territory and commodity, and entirely excluding potatoes in sacks, onions in sacks, apples and fresh berries,

(1) from Los Angeles to San Francisco, Oakland, Salinas, San Jose, Watsonville and Santa Cruz; and

- (2) to Los Angeles from points and places located on and within three (3) miles laterally of,
- (a) state highway No. 1 between San Gregorio and Carmel,
 - (b) main highway between Castroville and Salinas,
 - (c) U.S. Highway No. 101 (including Bayshore Highway and El Camino Real) between San Francisco and Greenfield,
 - (d) state highway No. 17 between San Jose and San Leandro,
 - (e) highway between Warm Springs and San Leandro via Niles and Hayward,
 - (f) points and places within a ten (10) mile radius of San Jose,

via nine direct and two alternative routes between the points sought to be served. Applicant further seeks authority to consolidate shipments at various points within the area referred to; such shipments moving from said consolidation points via the various routes specified.

With respect to the commodity and territorial restrictions heretofore referred to, applicant agreed that it would not transport fresh cherries to Los Angeles from points and places north of, but not including San Jose, to and including San Leandro located in areas described as (1) on and within three (3) miles laterally of state highway No. 17 between San Jose and San Leandro and (2) on and within three (3) miles laterally of the highway extending from Warm Springs to San Leandro via Niles and Hayward. Additionally, the transportation of oranges, lemons and grapefruit was limited to a service from Los Angeles to San Jose, Salinas, Watsonville and Santa Cruz only.

Applicant proposes to provide a terminal to terminal

operation only, with the following exceptions providing for pickup and delivery service at commission markets, ranches, farms (including loading platforms in the vicinity of farms) produce packing houses, and produce packing sheds in the following described areas:

A - Pickup Service

1. To be rendered in the territory described under subheadings (a) to (f) inclusive on all authorized commodities.
2. On oranges, lemons and grapefruit only, at commission markets, produce packing houses and produce packing sheds located in Eighth and Ninth Street Markets in Los Angeles, and at other commission markets, produce packing houses and produce packing sheds which are not served by rail spur or team tracks and which are located within a radius of one (1) mile from the present depot of applicant at 320 Gladys Street in Los Angeles, California.

B - Delivery Service

1. To be rendered on all authorized commodities to commission markets, packing houses, wholesale produce distribution depots and depots of common carriers located in San Francisco, Oakland, San Jose, Salinas, Watsonville, Santa Cruz and Los Angeles.

Under applicant's proposal as amended, no service, for the commodities herein proposed to be transported, is offered between produce packing sheds located at points of origin and destination herein named.

In addition, applicant has agreed to a limitation as described in the following statement:

"Applicant further amends its application to provide that any certificate granted herein shall contain a limitation to the effect that applicant will not transport as a highway contract carrier or as a radial highway common carrier fresh fruits or fresh vegetables from or to Los Angeles, on the one hand, and to or from any of the other points contained in any

certificate granted herein, on the other hand, and shall contain the further limitation that applicant will not on the same piece of equipment commingle with any shipment of produce transported under any certificate granted herein in any shipment of general merchandise transported as a highway contract carrier or as a radial highway common carrier; and applicant consents and requests that these limitations be made express conditions in any certificate granted herein."

Rates, rules and regulations governing the service herein proposed to be established at this time, are those appearing in exhibits attached to and made a part of its application, as amended. Daily scheduled service is to be rendered with certain minimum (2) schedules, subject, of course, to the various market requirements and to be dependent solely thereon. It is the express purpose of this applicant to afford the latest possible departure and the

(2) 1. Northbound service on trip proposed to make following day's market:

Leave Los Angeles between 8:00 and 10:00 A.M.;
Arrive Salinas between 8:00 and 10:00 P.M.; same day;
Arrive San Jose between 10:00 and 12:00 P.M., same day;
Arrive San Francisco between 1:00 and 3:00 A.M., following day;
Arrive Oakland between 1:00 and 3:00 A.M., following day;

2. Northbound service on trip proposed to make second days' market:

Leave Los Angeles at the time load is assembled;
Arrive Salinas approximately 12 hours after leaving Los Angeles;
Arrive San Jose approximately 14 hours after leaving Los Angeles;
Arrive San Francisco 16 to 18 hours after leaving Los Angeles;
Arrive Oakland 16 to 18 hours after leaving Los Angeles;

3. In connection with the foregoing services, it is proposed that the deliveries to consignees at Salinas, Santa Cruz, and Watsonville will be made by delivery trucks at such times as suit the convenience of the consignee, but not later than 6:00 A.M. of the following morning after arrival.

(continued on next page)

earliest possible arrival times commensurate with market operating hours so as to guarantee to the utmost a service which will enable shippers and growers to dispose of their commodities on as advantageous a basis as possible. ⁽³⁾

The record shows that the proposed movement is a highly specialized one requiring special handling and dependent in a material way on the very sensitive medium of the commission marketing system, which demands strict adherence to definitely limited hours of operation. Secondly, the perishable nature of most of the merchandise handled when coupled with the system of disposal thereof, brooks no undue delay if the principals therein are to successfully operate.

Footnote No. 2 continued:

4. Proposed service southbound on trip intended to make Los Angeles market:

Leave San Francisco not later than 9:00 A.M.;
Leave Oakland not later than 9:00 A.M.;
Leave San Jose 11:00 A.M.;
Leave Santa Cruz 10:00 A.M.;
Leave Soquel 11:00 A.M.;
Leave Watsonville 12:00 noon;
Leave Salinas 1:30 P.M.;
Arrive Los Angeles 2:30 A.M. following morning;

5. Proposed service out of Santa Cruz territory southbound on trip intended to make second day's market:

Leave Santa Cruz 5:00 P.M.;
Leave Soquel 6:00 P.M.;
Leave Watsonville 7:00 P.M.;
Leave Castroville 8:00 P.M.;
Leave Salinas 10:00 P.M.;
Arrive Los Angeles 9:00 A.M. following day;

6. Proposed service out of San Jose area southbound on trip intended to make second day's market:

Leave San Jose 10:00 P.M.;
Arrive Los Angeles 12:00 midnight following night;

(3) Los Angeles and San Francisco markets open approximately 3:00 A.M., summer, 4:00 A.M., winter; San Jose markets approximately 4:00 A.M., summer, 5:00 A.M., winter. Business usually consummated 8:00 A.M. to 9:30 A.M. on the average.

It is difficult in proceedings of this nature to accurately set forth the actual tonnage which may be available or which may actually be shipped from day to day, because of variable market demand and seasonal "peaks." However, it is apparent that a considerable amount of produce is available and moving, and does require expeditious transportation. This is particularly true in the case of less-than-carload shipments and in the so-called emergency shipments required by various markets to bolster shortages created by unusual demand or for those shipments which, finding themselves confronted with an overburdened market close to home are faced with the necessity of finding other markets where such particular shipments may find a more favorable outlet.

This appears to be the general situation present in the instant proceeding. The market system itself appears to be quite flexible and geared to handle such instances, but the means of consummating the arrangements developed, i.e., transportation services, have not, according to this record, been able to supply a companion flexibility.

(4)
The witnesses of record testifying as to the use of their own and private or contract trucks, stated that they have found them unable, in many instances, to cope with the situation presented. No specific criticism of other common carrier services appears of record except in so far as operating limitations and schedules, on perishables particularly, lacked a flexibility and expedition apparently desired and needed by shippers. Additionally, the presence of a considerable number of individual trucks, all arriving at the

(4) The testimony of some forty witnesses was heard or stipulated into the record in support of applicant, wholly or in part.

same time, or within a limited period of time, has caused considerable congestion and confusion in the rather limited space available for such vehicles in the markets necessarily patronized and used by the parties engaged in the produce business. It is their contention that a service such as proposed by applicant would tend to alleviate such a condition. According to the record, it also appears that a regularly scheduled certificated service would tend to provide a stabilizing influence in the transportation of produce which would prove of value to both growers and commission men and hence provide the consuming public with a better and more complete service.

Applicant Coast Line Truck Service, Inc. is an experienced operator in this specialized line of endeavor, having been operating for a considerable time under limited certificates of public convenience and necessity, both in northern and southern California. The applicant is apparently successfully carrying on its present services to the satisfaction of both grower and commission merchant and appears ready, willing and able to perform the extended service now proposed.

Although at the outset of this proceeding a considerable number of protestants appeared, they have, as heretofore indicated, with two exceptions, withdrawn their opposition in view of the amendments and limitations of its authority agreed to by applicant. Valley Motor Lines, Inc. and Valley Express Company, while not having withdrawn their protest, have presented nothing affirmative of record supporting their position. The protest was manifested by entering appearances as protestants and some cross-examination of applicant's witnesses.

In view of these circumstances, the Commission is of the opinion that the service as proposed is in the public interest and that applicant Coast Line Truck Service, Inc. should be given the opportunity to afford the public, as represented by the interests herein involved, a service which they have definitely indicated as being necessary in the conduct of their businesses. The application will be granted.

Coast Line Truck Service, Inc. 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 RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require, subject to the limitations and conditions hereof, the establishment and operation by the applicant of an automotive service, as a highway common carrier, as such is defined by Section 2-3/4 of the Public Utilities

Act, for the transportation of fresh fruits and fresh vegetables, excepting and excluding potatoes in sacks, onions in sacks, apples and fresh berries, between the points and over the routes hereinafter set forth, as an extension and enlargement of applicant's existing rights and consolidated therewith, to-wit:

From Los Angeles, California, to San Francisco, Oakland, Salinas, San Jose, Watsonville, and Santa Cruz, California; also

To Los Angeles, California, from points and places located on and within 3 miles laterally of State Highway No. 1 between San Gregorio, California, and Carmel, California; also from points and places located on and within 3 miles laterally of the main road between Castroville and Salinas; also from points and places located on and within 3 miles laterally of State Highway No. 101, including Bayshore Highway and El Camino Real, between San Francisco and Greenfield; also from points and places located on and within 3 miles laterally of State Highway No. 17 between San Jose and San Leandro; also from points and places located on and within 3 miles laterally of the highway extending from Warm Springs, California, to San Leandro, California, via Niles and Hayward; also from points and places located within a ten mile radius of San Jose, California,

over and along the following routes:

To Los Angeles, California, from points and places located on or adjacent to Highway No. 101 route via Highway No. 101;

To Los Angeles, California, from points and places located on or adjacent to the main road between Castroville and Salinas, route via said main road to Salinas, thence via Highway No. 101;

To Los Angeles, California, from points and places on and within three miles laterally of State Highway No. 1, route via Highway No. 1 to Castroville, thence via main road to Salinas, thence via Highway No. 101;

To Los Angeles, California, from points and places on and within three miles laterally of State Highway No. 17, route via Highway No. 17 to San Jose, thence via Highway No. 101;

To Los Angeles, California, from points and places on and within three miles laterally of the highway extending from Warm Springs, California, to San Leandro, California, via Niles and Hayward, route via said highway extending from Warm Springs to San Leandro via Niles and Hayward to Warm Springs, thence via Highway No. 17 to San Jose, thence via Highway No. 101;

To Los Angeles, California, from points within a ten mile radius of San Jose, California, route via Highway No. 101 to Los Angeles;

From Los Angeles, California, to Salinas, San Jose, and San Francisco, route via Highway No. 101;

From Los Angeles, California, to Watsonville and Santa Cruz, route via Highway No. 101 to Salinas, thence via main road to Castroville, thence via Highway No. 1;

From Los Angeles, California, to Oakland, California, route via Highway No. 101 to San Jose, thence via Highway No. 17 to Oakland with an alternate route between Warm Springs and San Leandro via Niles and Hayward, and in the alternative, route via Highway No. 101 to San Francisco, thence via San Francisco Bay Bridge to Oakland;

To San Francisco, California, alternate routes are authorized via Bayshore and El Camino Real Highways, also via the above routes to Oakland, thence via San Francisco Bay Bridge to San Francisco;

In addition to the foregoing direct routes, applicant is authorized to consolidate shipments at various points within the area it is authorized to serve. Such shipments shall move from the consolidation point via the routes herein specified:

subject to the following restrictions:

1. Applicant shall have authority to render a pickup service beyond its terminals only at commission markets, farms (including loading platforms in the vicinity of farms), ranches, produce packing houses, and produce packing sheds located within the originating area it is authorized to serve.

2. With respect to grapefruit, oranges, and lemons, such pickup service beyond its terminals is authorized only at commission markets, produce packing houses, and produce packing sheds located in the Eighth and Ninth Street Markets in Los Angeles, and at other commission markets, produce packing houses and produce packing sheds which are not served by rail spur or team tracks and which are located within a radius of one mile from the present depot of applicant at 820 Gladys Street in Los Angeles, California.
3. Applicant is authorized to render a delivery service beyond its terminals only at commission markets, packing houses, wholesale produce distributing depots, and depots of common carriers at the destination points it is authorized to serve.
4. Applicant is not authorized hereunder to transport commodities from produce packing sheds at originating points named or described herein to produce packing sheds at points of destination named or described herein.
5. Applicant is not authorized to transport fresh cherries to Los Angeles, California, from points and places north of, but not including, San Jose, California, on or within three miles laterally of State Highway No. 17 between San Jose and San Leandro, California, nor from points and places on or within three miles laterally of the highway extending from Warm Springs, California, to San Leandro, California, via Niles and Hayward.
6. Applicant is not authorized to transport oranges, grapefruit, and/or lemons from Los Angeles, California, to any points or places named or described herein, except to San Jose, Salinas, Watsonville, and Santa Cruz, California.
7. Applicant shall not transport as a highway contract carrier or as a radial highway common carrier, fresh fruits or fresh vegetables from or to Los Angeles, on the one hand, and to or from any of the other points contained in the certificate granted herein, on the other hand.
8. Applicant shall not on the same piece of equipment commingle with any shipment of produce transported under the certificate granted herein any shipment of general merchandise transported as a highway contract carrier or as a radial highway common carrier.

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

to Coast Line Truck Service, Inc., subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
3. 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 (10) 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 herein granted, or rates and rules 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 (5) 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.
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 obtained.
6. 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.
7. 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 16th day of January, 1940.

Ray L. Riley
James R. Sullivan
Robert A. ...

Justin L. Caenen
COMMISSIONERS