

ORIGINAL

Decision No. 34758

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 GREGORY G. PANOPULOS for certificate  
 of public convenience and necessity to  
 operate a freight service as a common  
 carrier between Lynwood, Clearwater,  
 Hynes, Artesia, North Long Beach, Lake-  
 wood, Cypress, Norwalk, Euena Park,  
 Santa Fe Springs, Whittier, Montebello,  
 El Monte, Bassett and Baldwin Park, on  
 the one hand, and Los Angeles, Vernon  
 and Inglewood, on the other and all in-  
 termediate points; also between Los  
 Angeles, Vernon and Inglewood, for the  
 transportation of milk and other dairy  
 products and empty containers for same.)

Application  
No. 24299

HUGH CORDON, CLARENCE G. WEISBROD AND  
L. M. PHILLIPS, for Applicant.

CHARLES C. STRATTON, for California Milk  
Transport, Inc. and Cecil E. Snyder,  
Protestants.

H. P. MERRY, for Southern California  
Freight Lines and Southern California  
Freight Forwarders, Protestants.

BY THE COMMISSION:

O P I N I O N

Gregory G. Panopulos, the applicant in this proceeding,  
seeks a highway common carrier certificate authorizing him to  
transport milk between the dairies and the creameries located  
in and around Los Angeles.

Public hearing was held in this matter at Los Angeles  
on August 5, 6, 7, 8, and 11, September 22 and October 14 and 15,  
1941, before Examiner Howard. Evidence was received and the matter  
was submitted on the record made. It is ready for decision.

Applicant requests authority to render service between dairies, situated in or adjacent to the communities of Lynwood, Clearwater, Hynes, Artesia, North Long Beach, Lakewood, Cypress, Norwalk, Buena Park, Santa Fe Springs, Whittier, Montebello, El Monte, Bassett and Baldwin Park and the creameries established in Los Angeles, Vernon and Inglewood. This area includes the principal milk producing and processing center of what is known as the Los Angeles Basin.

The evidence of record shows that Panopulos has been engaged in the milk hauling business for the past seven years. He has served a portion of the territory, referred to, as a highway common carrier pursuant to certificate and has operated in another part of such area under a highway contract carrier permit. The testimony of dairymen received at the hearing indicates that the transportation service afforded by Panopulos is very good.

Applicant owns seven trucks of the type used for milk hauling. Four of these trucks are regularly employed in the milk transportation business. The other three trucks are maintained as standby equipment and are used to relieve the regular-run vehicles. Panopulos operates what were designated at the hearing as "straight loads." This means that he picks milk up at various dairies and takes it direct to a creamery. It is contemplated by applicant that the same character of operation will be continued if the requested certificate is granted. Panopulos proposes to charge a rate of 8 cents per can for the movement of milk between dairy and creamery. He is currently assessing such a charge. Testimony of an expert witness received during the hearing indicates that applicant can operate profitably in his present manner by charging a rate of 8 cents for each can of milk he transports.

The evidence justifies the conclusion that applicant has sufficient financial ability and transportation experience to conduct the proposed operation.

Numerous dairymen were called by applicant as witnesses. Most of them shipped their milk via Panopulos. However, many of these witnesses had also used the service of California Milk Transport, Inc., which will be referred to hereafter simply as California. This concern is a highway common carrier and is the principal milk transportation agency in the area applicant desires to serve. Some of the shipper witnesses said that the pickup service of California was not satisfactory. Three reasons for dissatisfaction were given: change in pickup time, too early a pickup, and failure to wait for milk if it was not ready when called for. Such witnesses stated that Panopulos waited until their milk was ready, picked it up at a time satisfactory to them, and did not change his pickup schedule. All of the dairymen who testified on behalf of applicant said they wished to see Panopulos granted a certificate because they favored competition. It was their expressed belief that better service at lower rates would result therefrom.

California Milk Transport, Inc., Cecil E. Snyder, Southern California Freight Lines and Southern California Freight Forwarders entered appearances at the hearing through counsel. All of them opposed the granting of this application. California, as the carrier chiefly concerned, was the most active protestant.

California now operates throughout virtually all of the proposed application territory, as well as beyond such area. It employs approximately 80 units of equipment to perform its operation and, in addition, maintains a cooling plant at its yard for the

storage of milk which must be held pending delivery at the creameries. California conducts three kinds of truck movements, "straight loads," "broken runs" and "yard-to-town hauls." Where milk is picked up by trucks at various dairies and taken direct to the creameries, the operations are termed "straight loads." This is the type of service Panopulos performs. Where milk is called for at dairies, brought to the California yard and kept in the cooling shed until time to be taken to the creameries, the operations are referred to as "broken runs." The movements designated as "yard-to-town hauls" are those in which milk is transported from the California yard and cooling plant to the creameries.

Several witnesses employed by creameries testified at the request of California. The practical operating problems confronting milk processors were disclosed by their statements. The evidence thus adduced shows that the creameries process and bottle several types and grades of milk, each of which must be run through the plant separately. To insure efficient handling, it is necessary that milk of the same grade or type be received at a specified time so that each class may be processed in a continuous operation. Hence, the creameries investigate and classify the milk of the producers and then prepare a time schedule for deliveries. Dairymen and carriers must cooperate so that the schedule may be followed and truck congestion at the processing plants may be eliminated. The results are most satisfactory, from the creameries' viewpoint, when one carrier transports the bulk of the milk. California hauls milk to the creameries these witnesses represent and their testimony shows the service to be excellent.

It is necessary for California to conduct the three kinds of truck movements, hereinbefore described, in order to satisfy the

requirements of both the producers and the processors. The dairymen must milk twice a day at intervals of about twelve hours. They ordinarily endeavor to milk at times which will enable them to finish shortly before their milk must be picked up to reach the creamery at the allotted hour. However, if the creamery schedule calls for a late morning delivery of the dairyman's milk he may want it picked up early by the carrier so that he can clean up his sheds and equipment and allow the proper interval before the evening milking. To accommodate the dairymen in such situations, California picks up the milk at a time agreeable to the producer and takes the milk to its cooling shed. This illustrates the use of the so-called "broken runs." The milk must be kept cool to protect it and to prevent high bacteria counts until such time as the creamery is ready to receive it. Then the milk is carried to the processing plant on the "yard-to-town hauls." Where the conditions are such that the quality of milk produced by dairymen is similar and can be picked up at about the same time and taken direct to the creamery, "straight loads" are used.

A study was prepared and presented by an expert witness who testified on behalf of California. It was shown by this evidence that the actual cost incurred by California for transporting each can of milk is 8.9 cents. The fact that this cost is higher than that experienced by Panopulos is explained by the necessity for California to maintain cooling facilities and to re-handle a portion of the milk cans in order to render the requisite service. California charges a rate of 9 cents per can in the bulk of the territory applicant seeks to serve.

Three creamery employees were called by applicant as rebuttal witnesses. They testified that it was immaterial in their particular operations whether the milk was brought to their plants

by one carrier or several. However, they stated that they bottled only two, or possibly three, grades of milk and that all of the raw milk they handled was run through the processing plants into the tanks and standardized therein. Hence, the creameries they represented could take all milk received, regardless of the butterfat content, and process it without interruption. The processing problems occurring in the creameries which the California witnesses referred to are not encountered in the creameries the rebuttal witnesses represented. They did say, however, that the time of arrival of milk was very important to them and that they specified when the dairymen must effect delivery.

Cross-examination of the dairymen, who testified for applicant, disclosed that they were primarily interested in obtaining the lowest possible rate for milk hauling. It is apparent that their complaints of the service afforded by California were incidental to this major concern. Several admitted that the service of California was very satisfactory and others that it was as good as that rendered by Panopulos. All of the service defects mentioned seemed to be regarded as relatively unimportant. Hence, it must be presumed that those who changed from the transportation facilities of California to those of Panopulos were influenced to do so by the desire to save money and not because of any inferiority or inadequacy in the service performed by California. When the extent and the specialized character of the California operation is viewed in the light of the evidence adduced in this proceeding, it is manifest that California renders an exceptionally fine transportation service.

Full consideration of the evidence in this record leads to certain factual conclusions. Adequate milk hauling service is

provided in the area in question at the present time. California Milk Transport, Inc. has the experience, ability and facilities to satisfactorily transport the milk of all dairymen requiring such service. The rate charged by California is not shown to be unreasonable for the service it performs. It is doubtful whether applicant could operate profitably at the proposed rate if his business increased appreciably because of the practical operating problems in the milk industry which it seems likely would require Panopulos to change his methods of rendering service. The advantage of competition is not proven. No need for an additional highway common carrier milk hauler is shown.

The foregoing summation impels the conclusion of law that Panopulos has failed to prove public convenience and necessity sufficient to justify the granting of the certificate requested. Therefore, the application will be denied.

O R D E R

Based upon the evidence of record and the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED that Application No. 24299 is denied.

Dated at San Francisco, California, this 15<sup>th</sup> day of November, 1941.

[Signature]  
[Signature]  
Justice J. Calves  
Francis D. Havens  
[Signature]  
 COMMISSIONERS