

Decision No. 36318

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SOUTHERN CALIFORNIA FREIGHT LINES, )  
 a corporation, for a certificate of )  
 public convenience and necessity to )  
 extend its service from Los Angeles, ) Application No. 23259  
 California to San Francisco and Oak- )  
 land, California, and certain inter- )  
 mediate points for the transportation )  
 of fresh fruits and fresh vegetables. )

H. J. BISCHOFF, for Applicant.

C. G. ANTHONY, for Keystone Express and Pacific Freight Lines, Interested Parties.

HAROLD FRASHER and W. S. JOHNSON, for Valley Motor Lines, Inc. and Valley Express Co., Protestants.

CARL R. SCHULZ, for Coast Line Truck Service, Inc., Protestant.

W. J. MARTINDALE and EDWARD STERN, for Railway Express Agency, Inc., Protestant.

F. X. VIEIRA and E. L. VAN DELLEN, JR., for Southern Pacific Company and Pacific Motor Trucking Company, Protestants.

J. S. LOFFERTY and GEORGE T. HURST, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.

E. J. SCHELL, for California Motor Express, Protestant.

G. R. FRASHER, for Valley Express Co. and Frasher Truck Company, Protestants.

J. NELSON KAGARISE, for Public Freight Service, Interested Party.

BY THE COMMISSION:

O P I N I O N

Southern California Freight Lines, a corporation, by its application, as amended, seeks to establish and operate a highway common carrier service limited to the transportation of

fresh fruits and vegetables (except fresh berries and cherries) and empty containers to and from Los Angeles, San Francisco, Oakland, San Jose, Salinas, Watsonville, Castroville, Aptos and certain contiguous and lateral territory in the vicinity of San Jose, Salinas, Watsonville and Aptos, as an extension and enlargement of and consolidated with its existing operative rights.

Public hearings of this application were had before (1) Examiner McGettigan between November 25, 1940 and July 23, 1941, when the matter was submitted on briefs duly filed with the Commission and it is now ready for decision.

Valley Motor Lines, Inc., Valley Express Co., Coast Line Truck Service, Inc., Southern Pacific Company, Pacific Motor Trucking Company, The Atchafson, Topeka and Santa Fe Railway Company, Frasher Truck Company and California Motor Express appeared in protest to the granting of this application. Keystone Express, Pacific Freight Lines and Public Freight Service appeared as interested parties. Railway Express Agency, Inc. originally entered its appearance as a protestant but subsequently withdrew its opposition upon the exclusion of the transportation of fresh cherries and berries from applicant's proposal.

#### The Proposal of Applicant

Southern California Freight Lines proposes a daily except Sunday service, including pickup and delivery, on produce generally, northbound from areas it now serves in Southern

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(1) In Los Angeles November 25 and 26, 1940; in Salinas May 20, 1941; in San Jose May 21, 1941 and June 15, 1941; in Santa Cruz June 10, 1941; in Los Angeles June 12, 1941; and in San Francisco on July 23, 1941.

California, including the San Diego and Imperial Valley areas and Los Angeles, on the one hand, to Salinas, Watsonville, San Jose, Oakland and San Francisco, on the other hand, and southbound from San Francisco, Oakland, San Jose, Aptos, Watsonville, Castroville and Salinas, on the one hand, to Los Angeles, on the other hand. Under its proposal, southbound applicant seeks to include a right to serve within a radius of ten (10) miles of the cities of San Jose and Salinas and to serve laterally within a zone extending three (3) miles on either side of the routes traversed between Aptos and Salinas and Watsonville and Aptos, as points of origin for Los Angeles.

This proposal of Southern California Freight Lines purports to provide an expedited service for the transportation of fruits and vegetables to and from commission markets and producing areas here involved by establishing scheduled services which will allegedly enable its patrons to obtain first-morning deliveries in time for market openings, particularly at San Francisco and Los Angeles, <sup>(2)</sup> on shipments originating at Los Angeles and Northern California points, respectively, and second-morning for shipments originating south and east of Los Angeles.

Through service on produce between extreme termini is not offered to the extent that Imperial Valley loadings destined

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<u>(2) Read Down</u>		<u>Read Up</u>	
<u>A. M.</u>	<u>P. M.</u>		
9:00		Lv. Los Angeles	Ar. 2:00
	9:00	Lv. Salinas	Lv. 2:00
7:00		Ar. Watsonville	Lv. 4:30
	11:00	Ar. San Jose	Lv. 12:01
2:00		Ar. S. F. - Oakland	Lv. 9:00

to San Francisco or Oakland, for example, would be transported without layover at Los Angeles to San Francisco or Oakland. According to amended Exhibit "D," shipments from the San Diego area and Imperial Valley points served by Southern California Freight Lines are scheduled to arrive daily, except Sunday, in Los Angeles at 12:01 A.M. and 1:00 A.M., respectively.

Shipments destined to points north of Los Angeles named in this application, will leave that point at 9:00 A.M., together with shipments originating at Los Angeles. At the discretion of the carrier, but with no reduction in layover time, such shipments would either be transported by the original vehicle in which they arrived or transshipped to another vehicle for that portion of the trip between Los Angeles and destination. Movements in the reverse direction would be similarly handled.

Applicant's proposal also includes an offer to perform a field pickup and commission market delivery service. At San Francisco, Oakland and Los Angeles applicant will perform this service itself. In the lateral and radial territory sought to be served herein, applicant does not propose, unless specifically ordered by the Commission or unless it proves more economical and satisfactory, to perform pickup and delivery service with either its own vehicles or its own employees. Instead, Southern California Freight Lines proposes to have this service performed, under contract based upon a set amount per 100 pounds, by existing highway common carriers serving in the territory. Tentative arrangements regarding the performance of this service were testified to by representatives of Clark Bros. for the area in and about Watsonville, Produce Transfer Co. for San Jose and the adjacent area, and Silva Truck Line for the Salinas territory. Applicant plans to use the equipment and

employees of these respective carriers in providing a morning pickup of produce for transportation to Los Angeles not later than noon of the day of said pickups so that produce may be delivered at the Los Angeles commission markets at approximately 2:00 A.M. of the day following pickup. Under applicant's proposal the services of these carriers are to be utilized only during the slack period in their own operations in this territory. Their existing highway common carrier certificates, however, do not authorize them to serve this territory or to transport the commodities involved, except in part.

In other words, Southern California Freight Lines seeks to acquire basic certificated rights in a specific territory and allot the physical operation thereunder, subject to its nominal control, to other carriers on the basis of so much per 100 pounds of freight transported. In the event that its proposal were found to be impractical, uneconomical or disallowed by the Commission, applicant proposes to perform this pickup and delivery service itself. Applicant further stated that adequate offices, depots, docks and equipment would be arranged for and established, together with a fully trained personnel and supervisory field force to effect direct contact with growers. No estimate was furnished as to the number, disposition, or cost of the equipment, physical facilities or personnel required to carry out the proposal of applicant, either wholly or in part. Applicant based its ability to establish and operate the proposed enlarged service principally upon its nineteen years of experience in the transportation of produce in Southern California and its general reputation and success as a highway common carrier of commodities generally in Los Angeles, Orange, San Diego, Riverside, Imperial and San Bernardino Counties where it now operates some three hundred vehicles.

The Showing for Protestants

(3)

Southern Pacific Company maintains both carload<sup>(3)</sup> and less-than-carload<sup>(4)</sup> rail service between San Francisco and Los Angeles and the territory intermediate thereto for the transportation of perishables as well as other property.

The carload service of Southern Pacific Company, according to the record, is now and has been rather extensively used for the transportation of the less perishable commodities between a number of the points here involved.<sup>(5)</sup>

The record shows that for the past eight months less-than-carload shipments of perishables have been handled by Southern Pacific Company on the schedules designated in footnote No. 4. This is due to the introduction and use by the company of a new device called the Portacold. The Portacold is a wheeled vehicle 61½ inches high, 41½ inches wide and 80½ inches long, containing a bunker for crushed ice and designed to be rolled into a freight

(3) Daily except  
 Sunday:           Lv. Los Angeles   12:01 A.M.  
                       Ar. San Francisco  3:30 A.M. - Following day  
 (Same service in reverse direction)

(4) Daily:           Lv. Los Angeles   8:00 P.M.  
                       Ar. San Francisco  8:45 A.M.)   Following day  
                       Ar. Oakland       8:45 A.M.)  
                       Lv. San Francisco  7:40 P.M.  
                       Lv. Oakland       7:45 P.M.  
                       Ar. Los Angeles   8:15 A.M. - Following day

(5) For the year ending September 30, 1940, for example, the following carloads were transported: 416 carloads of apples from Watsonville to Los Angeles; 24 cars of potatoes from San Francisco to Los Angeles; 12 carloads of pears from San Francisco to Los Angeles; 50 cars of bananas from Los Angeles to San Francisco; 39 cars of lettuce, 15 cars of peas and 1 car of celery from Salinas to Los Angeles.

car (eight to a car) and anchored. This device has a capacity of 2½ tons and at present is available at San Francisco and Los Angeles. Principally used for the transportation of frozen vegetables, it is anticipated that it may successfully be used for the transportation of fresh produce. Present rail service is currently depot to depot.

Valley Express Co., through the use of the joint facilities of Valley Motor Lines, Inc. and Pacific Freight Lines, as underlying carriers, and Valley Motor Lines, Inc. singly, have the authority to transport fruit and produce to and from the areas here under discussion. The volume of shipments actually moving under such authority has been comparatively small.

Railway Express Agency, Inc., having withdrawn from this proceeding, no discussion of its services appears necessary.

California Motor Express and Frasher Truck Company offered no affirmative evidence in support of their respective positions as protestants in this matter.

Coast Line Truck Service, Inc., the remaining protestant of record, is now engaged in the transportation of produce from Los Angeles to

- (a) San Francisco, Oakland, Salinas, San Jose, Watsonville and Santa Cruz.

and to Los Angeles from

- (b) territory between:

1. San Gregorio and Carmel
2. Castroville and Salinas
3. San Francisco and Greenfield
4. San Jose and San Leandro
5. Warm Springs and San Leandro via Niles and Hayward;

- (c) territory within a ten (10) mile radius of San Jose and laterally three (3) miles on either side of the routes traversed,

as an extension of and consolidated with other similarly established produce operations from the San Gregorio, Pescadero, Santa Cruz and Watsonville areas to Los Angeles and from territory in and about Pomponio and Aptos Creeks, Santa Cruz, Lexington and Holy City to Oakland, San Leandro and Emeryville commission houses, packing houses and canneries.

Protestant Coast Line Truck Service, Inc. requested that its time schedules be made a part of the record by reference. These time tables show that five scheduled services are offered daily between the points at issue. Pickup service, except for oranges, lemons and grapefruit, is authorized at commission markets, farms (including loading platforms in the vicinity of farms) ranches, packing houses and sheds located within protestant's authorized originating area and delivery service may be performed at commission markets, packing houses, wholesale produce district depots and common carrier depots at destination points protestant is authorized to serve.

For the Public

During the course of this proceeding eighty-two public witnesses appeared and testified. <sup>(6)</sup> Of this number, forty-six appeared at the request of applicant Southern California Freight Lines and thirty-six were called by protestant Coast Line Truck Service, Inc. Among these witnesses were individual growers, buyers, brokers, and representatives of commission houses, grower

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(6) In addition, operating witnesses were called by and testified for applicant, Southern California Freight Lines, and protestants, Southern Pacific Company and Valley Motor Lines, Inc.



organizations and packing houses from Fullerton, Thermal, Riverside, Los Angeles, Glendale, Redlands, Salinas, Watsonville, Los Gatos, Campbell, San Jose, Agnew, Mountain View, La Habra, Indio, Oceanside, Carlsbad, Pomona, Watsonville, Cupertino, Santa Clara, Castroville, Soquel, Santa Cruz, Gardena, Capitola and San Francisco.

In general, the testimony of these witnesses revealed that the movement of produce, particularly as it relates to the service proposed by applicant, is dependent almost entirely upon commission market price conditions. These witnesses were not of one mind with respect to the use or non-use of field pickup services; the benefits of or need for forenoon rather than afternoon pickups; through service as opposed to transshipping at break-bulk points and the effect such rehandling had upon produce. Some criticism of existing services was revealed, particularly dealing with delays en route so that market openings were missed on occasion. Apparently there were also misunderstandings as to the availability or time of pickup. Unanimity of opinion was apparent with respect to the necessity for produce to arrive in good condition in time for specific market openings, whether first day or second day. Additionally, this testimony showed a considerable interest in the question of rates, indicated rather widespread use of both contract and proprietary trucks and revealed the movement of produce to be spasmodic at times as regards particular markets with corresponding fluctuations in tonnage and demands for service. The principal requirement of these witnesses was for a transportation system requiring a minimum of time in transit from field or packing house to the market and providing service capable of instantly responding to market demands at satisfactory rates and involving conditions of

handling which would reasonably guarantee arrival of produce in prime condition on markets within set time limits and under conditions dictated by the desires and demands of the public as well as the grower and middleman.

#### Summary

The foregoing statement generally reflects the attitude of the public. A detailed summary of such testimony would be repetitious and of little affirmative value in disposing of this matter. It is clear that shippers and receivers in this proceeding are principally interested in the most direct and expeditious service it is economically feasible to operate. To provide such a service requires a trained personnel, ample and specially designed equipment, and a flexibility of operation over and above that generally required in other types of transportation.

It is evident from this record that service demands of individuals or groups of shippers and receivers alike are quite varied depending to a considerable degree upon their personal desires, the season of the year, commodity grown, market conditions and the size of farm, packing house or commission house affected. Thus we find shippers preferring to use carload or truckload services; others specializing in less-than-carload lots for special market conditions; some using their own means of transportation; some requiring and using field or packing house pickup facilities; others prone to gather and transport their shipments to loading docks or other concentration points; some wanting morning pickups, while others are desirous of evening pickups.

It is apparent that there is a public need for

specialized service in the transportation of produce. Satisfaction of this need must rest upon a determination as to whether existing transportation services are reasonably adequate to care for the requirements of those engaged in the raising and distribution of vegetables and fruits, or whether such services are insufficient or incapable of supplying this need. The proposal of Southern California Freight Lines, as disclosed by this record, must be considered, therefore, on the basis of its ability to establish a service either not now being provided or a service necessarily and inherently superior to that now in existence.

First, let us examine, in the light of this record, existing rail and truck facilities between the points involved. Rail service appears to be reasonably adequate for those shippers (including those shipping less perishable products) not particularly bound to make markets overnight and capable of providing their own pickup and delivery facilities. Such a service is not, however, comparable to services which offer to transport produce from field or farm to commission markets.

Discussion of truck services, exclusive of proprietary and contract operators, will, on this record, be confined to the operations of Valley Express, through its underlying carriers Valley Motor Lines, Inc. and Pacific Freight Lines, Valley Motor Lines, Inc., as a highway common carrier in its own right, and Coast Line Truck Service, Inc. Valley Express, Valley Motor Lines, Inc. and Pacific Freight Lines, although they have not engaged to any extent in this particular type of service, are all in a position to, and are capable of transporting produce. Coast Line Truck Service, Inc., pursuant to certificates of public

convenience and necessity, is primarily engaged in the transportation of produce in the territory and between the points applicant proposes to serve. With respect to movements between points in the San Diego and Imperial Valley areas and points between the Los Angeles and San Francisco areas, under the present plan of operation a transfer of shipments is necessary at Los Angeles where this carrier's line connects with other carriers operating to the south. Coast Line Truck Service, Inc. is offering both overnight and second-morning service on produce to commission markets. Furthermore, field pickup service is available to shippers upon request and store-door delivery service is also made available to patrons. Considerable testimony of record indicated regular use of and satisfaction with the type and frequency of service offered by Coast Line Truck Service, Inc. If, as applicant alleges, Coast Line Truck Service, Inc. is not operating in accordance with its constituted authority and has refused to render various services, the record in this proceeding does not substantiate such claims.

Applicant's proposal received support from three sources in particular; first, on the basis of offering a through service to Northern California points from Imperial Valley and San Diego County points it now serves and, second, from patrons located in these same areas desirous of dealing with one carrier from point of origin to point of destination; third, in consideration of past satisfactory relations between itself and its patrons based upon its long experience (19 years) in the transportation of produce in Southern California. However, the

record shows that through service is not proposed except at the convenience of applicant or when tonnages warrant. Little doubt exists that some advantage accrues with the use of a single carrier's facilities. Equally good service could be rendered, however, by a combination of the services of two or more carriers, the record so reveals. It would appear that the proposal of Southern California Freight Lines would be of benefit only to those shippers located south and east of Los Angeles in the Imperial Valley and San Diego County and such advantages appear slight when it is considered that the direct through service desired would be available only if applicant found it convenient to provide through transportation and sufficient tonnage was offered to justify the expense. Even in this event Southern California Freight Lines' through service proposal does not include a reduction in layover time at Los Angeles or time in transit so that, aside from eliminating one probable transshipment, no particular service advantage to shippers would accrue over and above the service available.

As to the extension of service proposed by Southern California Freight Lines to and from Northern California points, no over-all advantage in time is apparent. With reference to pickup and delivery service this applicant definitely indicated that it would not itself perform this service, although seeking a certificate therefor, but would turn such operation over to other designated highway common carriers upon a contract basis, the details of which were very indefinite. Furthermore, these highway common carriers' existing certificates are not co-extensive with that sought by applicant so that they do not now have basic authority to serve all the territory involved.

According to the record, they do not propose to apply for or obtain such authority. Should such a proposal be approved by the Commission, it would result in Southern California Freight Lines being granted certificated rights which it would not exercise. Although alternatively stating its willingness to perform the entire service if so ordered, Southern California Freight Lines was not prepared to and did not offer any specific plan of operation nor were any operating costs or revenue figures presented.

In the final analysis, applicant is proposing a service which would offer little, if any, advantage to shippers over that now available by existing carriers; has proposed a plan of pickup and delivery service which has not been justified by public convenience and necessity; has alternatively and belatedly agreed to change its pickup and delivery operation so that it would actually operate the service itself, but has offered no comprehensive plan of operation or offered any testimony tending to indicate that the proposal could be successfully conducted. Aside from some slight advantage which might possibly accrue to its patrons in Imperial Valley and San Diego County, this applicant has shown little more than a desire to establish and operate this service based primarily upon the fact that past experience and operations in an entirely different territory have allegedly been successful.

Upon this record we find that applicant has not shown that public convenience and necessity justify the granting of this application and it will be denied.

O R D E R

Public hearing having been had in the above-entitled application, the matter having been duly submitted, and the Commission being fully advised,

IT IS ORDERED that Application No. 23259 is hereby denied.

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

Dated at San Francisco, California, this <sup>th</sup> 27 day of April, 1943.

Francis J. Havenner  
A. H. B. M.  
Justus J. Casper  
Richard R. ...  
Howard ...  
COMMISSIONERS