

Decision No. 37481

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SANDERCOCK TRANSFER COMPANY, a)
 California corporation, for certificate)
 to operate truck line service as a)
 common carrier between San Luis Obispo)
 and San Jose, San Francisco, Berkeley,) Application No. 19736
 Newark, Alvarado and certain inter-)
 mediate points, and between San Luis)
 Obispo and Los Angeles and Los Angeles)
 Harbor and certain intermediate points.)

C.P. KAETZEL and WARE & BEROL by WALLACE
L. WARE, for applicant.

H. W. HOBBS, for Southern Pacific Company and
Pacific Motor Trucking Company, protestants.

H. W. HOBBS, H. C. GRUNDELL and W. T. MASENGILL,
for Pacific Coast Railway Company,
protestant.

H. W. HOBBS and J. M. DAVIS, for Santa Maria
Valley Railroad Company, protestant.

DOUGLAS BROOKMAN, for Valley and Coast Transit
Company and Coast Line Express, protestants.

WALLACE K. DOWNEY, for Pacific Freight Lines,
protestant.

EDWARD STERN, for Railway Express Agency, Inc.
protestant.

ELMER P. BROMLEY and H. E. LINDERSMITH, by H.E.
LINDERSMITH, for Joe Garcia, protestant.

ROBERT BRENNAN and WILLIAM F. BROOKS, for The
Atchison, Topeka & Santa Fe Railway Company,
protestant.

PHIL JACOBSEN, for Cantlay and Tanzola, Inc.,
Garibaldi Brothers and George J. Saul,
protestants.

BY THE COMMISSION:

O P I N I O N

This is an application for a certificate declaring that public convenience and necessity require the service of applicant as a highway common carrier of general commodities in tonnage lots between San Luis Obispo and points located on United States Highway No. 101 to and including San Francisco on the north and to and including Los Angeles on the south, and as a highway common carrier of livestock over routes that blanket the entire state.

Public hearings were had in San Luis Obispo and Los Angeles. The matter has been submitted and is now ready for decision.

The proposal of applicant contemplates the establishment of two distinct and different transportation services, one for the transportation of general commodities, the other for the transportation of livestock. Each of these services is separate and independent of the other and the evidence relating to each is clearly distinguishable and severable. Therefore, we will in this decision first consider the proposed transportation of general commodities after which we will consider the proposal to transport livestock.

Applicant seeks authority to transport a number of general commodities including building supplies, feed, dairy supplies, pipe and heavy hardware as a highway common carrier between the points hereinbefore indicated. The proposed service would be on-call and would be limited to the transportation of

(1)
so called "volume" shipments. The rates would include transportation from the store door or ranch of the consignor to the store door or ranch of the consignee.

Several San Luis Obispo shippers testified that such a service was desired by them and that, if established, it would fulfill some of their transportation needs. All of applicant's shipper witnesses use, or have used, the services of the highway carriers and the rail carriers now serving the territory in which applicant proposes to operate, and they stated that the service rendered by such carriers is satisfactory.

The certificated truck and rail carriers already
(2)
operating in this territory render a service entirely comparable and equal to that proposed by this applicant. Many shippers having a great amount of volume traffic moving between the points in question testified that these carriers are handling such traffic in a manner entirely satisfactory to them and that the service is sufficient to meet all of their transportation requirements.

Consideration of this record is not convincing that public convenience and necessity require applicant's proposed

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- (1) Applicant only proposes to transport shipments weighing ten tons or more.
- (2) The certificated truck carriers are Valley and Coast Transit Company, Coast Line Express, Motor Freight Terminal Company (presently known as Pacific Freight Lines) and Pacific Motor Trucking Company. The rail carriers are Southern Pacific Company, and Pacific Coast Railway Company.

transportation of property other than livestock. Therefore, the application in so far as it relates to the transportation of such property should be denied.

Applicant's proposal to transport livestock must be considered as related to similar applications heretofore (3) considered by the Commission. The said applications and this application were filed after the Commission had advised such applicants in a formal investigation that they were operating as (4) highway common carriers rather than as permitted radial highway common carriers. Since the same problem was presented by all such applications, they were, with the exception of this one, considered by the Commission at one time and a single opinion was issued. (5) This one was not joined with the others because it involved transportation of commodities other than livestock which would have introduced into that hearing a foreign element. Nevertheless, the problem presented by this application, in so far as it involves the transportation of livestock, is exactly the same as that presented by the applications heretofore considered. This applicant should, therefore, receive the same

(3) Applications Nos. 22207, 22208, 22210, 22211, 22241, 22243, 22316, 22347, 22372, 22373, 22466, 22467, 22468, 22469.

(4) Case No. 4305, Decision No. 33492.

(5) Decision No. 32673, 42 C.R.C. 408.

treatment as the others, and the statements made in the decision granting certificates to the other livestock haulers, which are of general application to the entire problem of transportation of livestock by truck and to the position in which permitted operators in this field were placed as a result of the doubtful status of their operations prior to the Commission's said investigation, apply here with equal force.

(6) "The record is replete with evidence showing the advantages of truck transportation for the hauling of livestock, as compared to rail transportation, at least for certain types of movements. The truck provides more flexibility, direct loading at point of production and unloading at destination point, shorter transit time, less shrinkage due to less transit time and nonnecessity of driving on foot to rail head, less bruising and crippling and service to remote recesses of the state not otherwise available for cattle production.

"Many producers of livestock, commission merchants, meat packers and butchers testified as to the need of a continuation of truck service for the movement of livestock in California. These witnesses testified that it was of vital necessity that the operations of all applicants be continued in full vigor, as at present sufficient truck equipment is unavailable during certain peak periods of the year. In the language of these witnesses--'a truck service is necessary for the transportation of livestock to, from and between all points in the State of California where grass grows and cattle roam.'" (Application Willis et.al. 42 CRC 408,416)

(7) "The line separating the operations of an 'on call' radial highway common carrier from one who operates between fixed termini or over a regular route is difficult to delineate. The record indicates that each of the applicants herein operated in good faith and with the sincere belief that his livestock transportation operations were those of a radial highway common carrier. It was not until Case No. 4305 was instituted by the Commission, which involved four of the carriers who are applicants herein, that the various livestock transporters became aware of the fact that the Commission might declare operations similar to those which they were conducting to be highway common carriage.

"In view of the vital need for a continuation of the services of all applicants and in view of the difficulty in determining on which side of the line of delineation the operations fall, it would appear inequitable to penalize the applicants who are respondents in Case No. 4305 and who have filed applications for certificates of public convenience and necessity." (42 CRC 408, 424)

Applicant seeks authority to establish an on call highway common carrier service for the transportation of livestock over routes which run throughout the entire state. He maintains that public convenience and necessity require this extensive service. It is apparent from a consideration of the record that there is a public need for regular and frequent service by applicant along certain of these routes, but the need does not nearly coincide with the ambitious plan presented by the application.

Applicant has been engaged in the business of transporting livestock for a number of years. Stockmen and agricultural experts testified that the transportation service which applicant renders and has rendered is a satisfactory one and that under present-day conditions it is necessary to them in operation of their ranches and businesses.

Applicant presented a summary of such service rendered by him during the past 2 years. This summary shows the relative public need for his service along the various routes over which he seeks authority to operate. When considered in connection with the testimony of the shipper witnesses, it clearly establishes that public convenience and necessity require regular and frequent service by applicant along the routes hereinafter, in the order hereto, particularly described. However, with equal force it likewise demonstrates that there is absolutely no public need for the proposed statewide service.

(8) Exhibit 13. This exhibit was prepared from freight bills issued to cover transportation performed by applicant during the said period. The freight bills were before the Commission and examined at the hearings held herein.

Sandercock Transfer Company is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Application having been made as above entitled, a public hearing thereon having been held, the record having been fully considered, and the Commission being of the opinion and hereby finding that public convenience and necessity so require,

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Sandercock Transfer Company, a corporation, authorizing the establishment and operation of service as a highway common carrier, as defined in section 2-3/4 of the Public Utilities Act, for the transportation of livestock only, upon an "on-call" basis between San Francisco and Los Angeles and intermediate points, and all points within fifty (50) miles of the routes hereinafter defined, and all points within a radius of fifty (50) miles of the main post office at Los Angeles, subject to the following restriction:

Applicant shall not transport polo ponies, race horses, or show horses except when said animals are being transported to or from rodeos and state or county fairs.

IT IS FURTHER ORDERED that in providing service pursuant to the foregoing certificate the following service regulations shall be observed and complied with:

1. 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.
2. Applicant shall comply with the provisions of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective appropriate tariffs and time schedules within 60 days from the effective date hereof, and on not less than 10 days' notice to the Commission and the public, said tariff containing rates and rules which in volume and effect shall be no lower than the rates and rules shown in the Commission's Decision No. 31924, rendered April 11, 1939, in Case No. 4293, and amendments thereto.
3. Applicant shall conduct said highway common carrier service over and along the following routes, subject to the authority of the Commission to change or modify them at any time by further order:
 - (a) Over and along U.S. Highways Nos. 101 and 101A between San Francisco and Los Angeles.
 - (b) Over and along State Route No. 178, between its intersection with U.S. Highway No. 101 near Santa Margarita and its intersection with U.S. Highway No. 99 near Packersfield, thence over U.S. Highway No. 99 to Los Angeles.

IT IS FURTHER ORDERED that in all other respects the application is hereby denied.

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

Dated at San Francisco, California, this 21st day of November, 1944.

James F. Cannon
Francis D. Havens
William B. ...

COMMISSIONERS