

Decision No. 38110

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CLARK L. COFFEE and JAKE STOKES, co-)
partners, doing business under the)
fictitious name and style of "GOODMAN)
SERVICE", for a certificate of public)
convenience and necessity to operate a)
truck service as a common carrier of)
produce; vegetables; eggs, poultry and)
other perishable produce; between)
points in Stanislaus County and the)
San Francisco Bay Area.)

ORIGINAL

Application No: 25974

EDMUND G. BROWN and AARON H. GLICKMAN, for applicant.

EDWARD STERN, for Railway Express Agency, Incorporated;
interested party.

BEROL & HANDLER by MARVIN HANDLER, for Valley Motor
Lines, Inc. and Valley Express Company,
interested parties.

MORTON G. SMITH, for Southern Pacific Company,
interested party.

WILLIAM F. BROOKS, for The Atchison, Topeka & Santa Fe
Railway Company, interested party.

JOHN E. HENNESSY, for Tidewater Southern Railway Co.
and Western Pacific Railroad Company, interested
parties.

BY THE COMMISSION:

O P I N I O N

By their application as amended, Clark L. Coffee and Jake Stokes, partners doing business as Goodman Service, seek a certificate of public convenience and necessity, under Section 50-3/4, Public Utilities Act, authorizing the establishment of a highway common carrier service, limited to the transportation of (a) fresh or green fruits and vegetables, eggs and poultry from certain points and places in Stanislaus, San Joaquin and Merced Counties to San Francisco and Oakland; and (b) empty shipping containers of such

commodities returning to these points of origin, or forwarded to said points for a return-paying load. In its final form, the application was not opposed by any of the carriers in the field. (1) Appearances as interested parties were entered by Railway Express Agency, Incorporated, Valley Motor Lines, Inc., Valley Express Company, Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway Company, Tidewater Southern Railway Co., and Western Pacific Railroad Company. The matter was submitted at a public hearing had before Examiner Austin at San Francisco on May 15, and at Modesto on June 4, 1945.

Both members of the partnership described in detail the nature of the proposed operation. Shipper witnesses testified to their need for the service.

Operating under permits issued by the Commission as a radial highway common carrier and as a highway contract carrier, applicant has long been engaged in transporting fresh fruits from farm loading stations, in Stanislaus County and bordering territory

(1) The original application sought authority to operate "between points in Stanislaus County and the cities and towns in the San Francisco Bay Area." By an amendment to the application, applicant proposed to operate between Modesto, Oakdale, Waterford, Montpelier, Turlock, Patterson, Vernalis and Salida, and points and places within a ten mile radius of each of such points, on the one hand, and San Francisco and Oakland, on the other hand. The origin territory would include most of Stanislaus County and adjoining parts of San Joaquin and Merced Counties. The common carriers appearing at the original hearing withdrew their protests when applicant stipulated that no service would be offered or traffic originated at any point served by rail. This would comprise the corporate limits of municipalities and the area within one mile of the post office in unincorporated communities. The stipulation, it was understood, would not preclude the transportation of commodities originating outside of rail points and brought by the shippers or by applicant's pickup trucks to terminals situated within such points.

in Merced and San Joaquin Counties, to various canneries. The movement is substantial, exceeding 70,000 tons annually. To accommodate these growers, numbering between one and two hundred, applicant has carried fresh fruits and vegetables raised on their farms to commission merchants in San Francisco and Oakland. This traffic comprehends but a small part of their total production. Applicant now seeks a certificate for the transportation of these commodities to San Francisco and Oakland, and for the transportation of returned empty containers in the opposite direction. Applicant would handle other traffic, such as agricultural supplies, from San Francisco and Oakland under its permit as a highway contract carrier. Only a small number of shippers would be served in this way.

The movement would be diversified and substantial. In general, the commodities handled would comprise fruits, vegetables, grapes, berries, nuts, melons, and poultry. During the period July 1, 1943 to February 29, 1944, the traffic averaged 210 tons monthly; throughout the fifteen month period February 1, 1944 to April 30, 1945 it averaged 165 tons a month.

The nature of the operation was described by the partners. Service would be provided daily excepting on days preceding Sundays and holidays. Trucks would leave the Valley terminals between 11:00 p.m. and 1:00 a.m., reaching the San Francisco and the Oakland markets between 2:00 and 4:00 a.m. A permanent terminal is situated at Modesto, and temporary or seasonal terminals are maintained at convenient points, being located currently at Turlock and Oakdale. About 75 per cent of the traffic is brought to these terminals by the producers, the remainder being picked up at orchards or farms by the applicant.

To provide the service, applicant would utilize the equipment now devoted to its present operations. It has available for this purpose some 64 units comprising 16 tractors, 6 line-haul trucks, 1 pickup truck, 19 trailers, and 22 semi-trailers. Applicant, it appears, is financially able to carry on the business.

Within the origin territory, described above, all available routes would be used. Both San Francisco and Oakland would be reached over U.S. Highway No. 50 and the San Francisco Bay Bridge.

The rates to be established would be predicated upon those prescribed by Decision No. 30737, as amended, in Case No. 4293, where the Commission established minimum rates for the transportation of fresh fruits and vegetables between various points in California. They would be published on a weight rather than a package basis.

In support of applicant's proposal, fifteen shipper witnesses were called. Of these, one appeared as spokesman for a cooperative with a membership of some twenty growers. These witnesses, who were scattered throughout the origin territory, and whose farms ranged in size from 10 to 1,000 acres, represented a fair cross section of the shippers. All marketed a share of their products through commission merchants in San Francisco and Oakland.

In the past, applicant's service had met their requirements, so they testified. Too early a pickup is not desirable since ordinarily it would foreclose the transportation of products harvested later in the day. It is imperative that shipments should reach San Francisco and Oakland by 4:00 a.m. when the markets open. Arrival at a later hour would result in lower prices or even total loss. Assertedly, no other common carrier, rail or truck, has provided a suitable or a sufficiently expeditious service. The service of Railway Express Agency, Incorporated, formerly was used, but owing to

changed schedules it no longer is adequate, they stated, shipments now arriving too late for the market.

The record, we are convinced, indicates the existence of a public need for the service which applicant proposes to establish. Accordingly, the application will be granted.

Clark L. Coffee and Jake Stokes are 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 having been had, and the Commission now finding that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Clark L. Coffee and Jake Stokes, partners doing business as Goodman Service, authorizing the establishment and operation of a service as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, between Modesto, Oakdale, Waterford, Montpelier, Turlock, Patterson, Vernalis, and

Salida, and points and places within a radius of ten miles of each of said points, on the one hand, and San Francisco and Oakland, on the other hand. Said service shall be limited to the transportation of fresh or green fruits and vegetables, eggs and poultry from said points of origin to San Francisco and Oakland; and to the transportation from San Francisco and Oakland to said points and places, of empty shipping containers of said commodities, which may be returned to points of origin, or forwarded to said points for a return paying load of said commodities.

Said certificate is granted subject to the following restriction:

Applicant shall transport no freight which may originate at or be destined to any point in Stanislaus, San Joaquin or Merced Counties (including the corporate limits of every municipality and the area within one mile of the post office in any unincorporated community), served by the rail lines of Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway Company, Western Pacific Railroad Company, or Tidewater Southern Railway Co. However, this shall not preclude (a) the transportation of commodities originating outside of such rail points, brought by the shippers or by the applicant to a terminal situated within any such point; and (b) the transportation of empty containers returned to a terminal located within any such rail point, when destined to points or places outside of such rail point.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

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 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 sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.

3. Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

(a) Over any and all suitable, appropriate and available public streets and highways between Modesto, Oakdale, Waterford, Montpelier, Turlock, Patterson, Vernalis and Salida, and points and places within a ten mile radius of each of said points, on the one hand, and the points of connection with U. S. Highway No. 50 near Tracy, on the other hand.

(b) Between said points of connection near Tracy, referred to in Paragraph (a) and San Francisco and Oakland, via U. S. Highway No. 50 and San Francisco Bay Bridge.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 27th day of July, 1945.

Edward Anderson
Justus J. Cuevas
Frank D. ...
Justus Cuevas
COMMISSIONERS