

Decision No. 38415

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of Stanley Cooley, doing business under the name and style of Cooley Livestock and Transportation Company, for a certificate of convenience and necessity for a common carrier service between points in Siskiyou County, California and points in other portions of California. )  
 )  
 ) Application No. 26832  
 )  
 )  
 )

ORIGINAL

BY THE COMMISSION:

Appearances

J. Everett Barr, for Applicant  
 Charles W. Burkett, Jr., for Southern Pacific Company.  
 J. J. Deuel, for California Farm Bureau Federation.

## O P I N I O N

In this application, as amended, Stanley Cooley, an individual doing business as Cooley Livestock and Transportation Company, seeks a certificate of public convenience and necessity authorizing him to transport livestock as a highway common carrier. Applicant proposes to provide an "on-call" service limited to the handling of truckload lots. The proposed operations are between Siskiyou County points on the one hand and Redding and points south to and including Modesto, San Jose and South San Francisco on the other hand.<sup>1</sup>

<sup>1</sup> In Siskiyou County, applicant desires to operate between the California-Oregon Line at points north of Dorris and Hilt on U.S. Highways 97 and 99, respectively, along these highways to their intersection at Weed, and thence via Highway 99 to Dunsmuir. He also desires to provide service at Siskiyou County points within 50 miles of these highways. South of Redding the contemplated operations are over U.S. Highways 99E to Sacramento and 99 to Modesto and 99W and 40 to Oakland and San Francisco. Between Oakland and San Jose, U.S. Highway 101E is proposed to be used and between San Francisco and South San Francisco the Bayshore Highway. As in the case of the Siskiyou County points, service is to be provided to points within 50 miles of the designated highways.

Public hearings were had at San Francisco on September 27, 1945 and at Yreka on November 8, 1945, before Examiner Mulgrew.

For some time, applicant has been operating under a radial highway common carrier permit and has been transporting truckload shipments of livestock between many of the points involved in this application. Requests for service have assertedly become so numerous that this application has been filed so that applicant may be in a position to meet the requirements of the Siskiyou County shippers. Applicant now operates two truck-trailer units. He is prepared to acquire an additional unit in the event the application is granted. With this equipment, he testified, he would be able to meet all demands for service which might reasonably be anticipated, except possibly for short times during peak shipping periods. The principal traffic involved, applicant said, would be from the various producing areas in Siskiyou County to markets and slaughter houses in the San Francisco Bay District and in the Sacramento and San Joaquin Valleys. Stock would also be moved, according to the applicant, between summer ranges in Siskiyou County and winter ranges located south of Redding. There would also be occasional other northbound movements into Siskiyou County. Applicant stated that he planned to operate out of Yreka and Fort Jones, points centrally located with respect to the county's livestock producing areas. He asserted that, ordinarily, the maximum time the stock would be in transit would not exceed 16 hours. For the contemplated service, he proposes to establish and observe the truckload minimum rate scales for highway carrier livestock transportation established by the Commission in Decision No. 37694 (45 C.R.C. 610).

The granting of the application was strongly supported by Siskiyou County Cattlemen's Association and Butte Valley

Cattlemen's Association. These organizations, affiliates of the California Cattlemen's Association, represent the producers of practically all of the livestock shipped out of Siskiyou County. The stock involved is preponderantly cattle. There is, however, some movement of sheep and hogs. Officers of the two local organizations and other members having substantial shipping requirements in all of the county's important producing areas testified that the transportation service now available to them was inadequate. The railroad service, they said, involved transit time which greatly exceeded the transit time by highway and resulted in excessive weight shrinkages. In stock for slaughter, they pointed out, the loss in weight was reflected in the prices obtained; and in feeder stock weight losses in rail movement were not offset, in some cases, until after several months of feeding on the new range. The witnesses said that shipments by rail to the San Francisco Bay District markets must be stopped in transit to feed and rest, involving loading and unloading en route. They estimated that more than three-quarters of the stock produced in the county originated at points so situated with respect to railroad loading facilities that it was not feasible to drive the stock to the rail loading points. When the stock is trucked to these points, they pointed out, another loading and unloading operation is involved. Each time stock is so handled, they asserted, a considerable amount of bruising results. The meat of bruised animals brings, the witnesses testified, a materially lesser return to the owner. Truck movement between points embraced by the application, they said, involves only one loading and one unloading reducing bruising and its attending losses to a minimum. One of the witnesses, most favorably located in regard to railroad

loading facilities, said that for the foregoing reasons even he used truck service in preference to rail for hauls not exceeding the distances involved in this application and, if necessary, would pay somewhat higher transportation costs to secure it. The other witnesses also testified that for these reasons rail transportation did not satisfactorily meet their shipping requirements between the points here in question.

The cattlemen said that for highway carrier transportation service they were now dependent almost entirely on carriers operating out of Stockton, the San Francisco Bay District, and other points considerable distances away from Siskiyou County shipping points. As a result, they testified, loading schedules cannot be arranged with any degree of certainty, the carriers frequently fail to meet the loading schedules which have been agreed upon, and there is a tendency on the part of the carriers to neglect outlying areas such as Siskiyou County during peak shipping periods. The witnesses asserted that these delays were costly to them because further feeding of the stock was involved and the animals having been taken from their accustomed grazing grounds lost weight despite these feedings. Stock ready for market, they claimed, cannot be held without financial losses being experienced by the owner.

All of the shipper witnesses stated that they were familiar with the service applicant had been rendering and expressed the belief that he could and would provide an adequate highway common carrier service. They stressed the fact that applicant's operations would be centered in Siskiyou County a circumstance which, they predicted, would enable him to meet loading schedules without the delays attending the handling of their stock by carriers

with headquarters hundreds of miles away. Unless service such as that proposed is made available to them, they pointed out, they will continue to be handicapped by being left dependent upon service involving unnecessary delays and by not being able to secure the financial returns from the sale of their stock which reasonably efficient transportation would enable them to obtain.

No one opposed the granting of the application.

The record demonstrates conclusively that public convenience and necessity require the service which applicant proposes to provide. The application will be granted.

Stanley Cooley 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.

C R D E R

Application having been made as above entitled, public hearings 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 HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Stanley Cooley, an individual doing business as Cooley Livestock and Transportation Company, 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, in truckloads, upon an "on-call" basis and between points on the California-Oregon State Line where such State Line is intersected by U. S. Highways 97 and 99 and Dunsmuir and intermediate points, on the one hand, and Redding and Modesto, San Jose and South San Francisco and intermediate points, on the other hand, and all points within 50 miles of the routes hereinafter defined, provided that north of Dunsmuir service shall be limited to points in Siskiyou County.

IT IS HEREBY 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 tariffs 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:

Over and along U.S. Highways 97 and 99 between the California-Oregon Line at points north of Dorris and Hilt, respectively, and the intersection of said highways at Weed, thence via U. S. Highway 99 to Redding; beyond Redding over and along U.S. Highways 99E and 99 to Modesto and 99W and 40 to Oakland and San Francisco; beyond Oakland via U. S. Highway 101E to San Jose; and beyond San Francisco via the Bayshore Highway to South San Francisco.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of November, 1945.

Harold Anderson  
Justin J. Casper  
Thomas W. Davis  
Irving L. Powell  
Harold A. Hull  
 Commissioners