

Decision No. 42938

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ARNOLD W. OGLE, VARD A. OGLE and)
 JOHN W. BANKS for a certificate of)
 public convenience and necessity to)
 operate a truck service for livestock) Application No. 30211
 from Covelo area to South San Francisco;)
 and general commodities with exceptions,)
 from Santa Rosa and Petaluma to Covelo.)

Preston and Falk by Tom Cleland for applicants.

OPINION

In this proceeding, Arnold W. Ogle, Vard A. Ogle and John W. Banks, copartners doing business as Banks and Ogle, seek a certificate of public convenience and necessity authorizing the establishment and operation of a highway common carrier service for the transportation of (1) livestock from Covelo and a 30-mile radius thereof to South San Francisco and (2) general commodities, including livestock and liquid commodities (in tank trucks) but excluding uncrated household goods and office equipment, from Petaluma and Santa Rosa to Covelo.

A public hearing was held before Examiner Bradshaw at Covelo.

Testimony was presented by two of the applicants. It appears that the copartnership has engaged in the trucking business for several years under radial highway common carrier and highway contract carrier permits. The present equipment, the applicants testified, consists of 3 trucks, 2 trailers, 1 tractor and a semi-trailer. The vehicles are of the flat-bed type. Two portable tanks

of 3,000 and 3,500 gallons capacity are utilized for transporting liquid petroleum products. This equipment was declared to be adequate for the proposed operations.

According to an exhibit of record, the copartnership in 1948 transported 892 tons of livestock, 693 tons of petroleum products and 531 tons of other freight between points involved in the application. Applicants assert that this tonnage represents approximately 50 per cent of the total traffic handled during the period covered by the exhibit.

The applicant-witnesses further testified that their business is increasing; that they want to be certain their operations are lawful; that no carrier presently serves the community of Covelo upon a regular schedule; and that the nearest common carrier transportation facility for the traffic applicants propose to handle is at Dos Rios, a distance of 16 miles over a mountain road.

The proposed time schedule contemplates a departure from Covelo at 8:00 p.m. on Sundays, with an arrival at South San Francisco at 7:00 a.m. the next morning. In the opposite direction, trucks would leave Petaluma at 11:00 a.m. and Santa Rosa at 1:30 p.m., on Mondays, arriving at Covelo at 7:30 p.m. the same day.

Two livestock shippers, the owner of a general merchandise store at Covelo and the agent in that community for a distributor of petroleum products testified on behalf of applicants. They declared that transportation performed by applicants in the past had been satisfactory and that the proposed service is necessary to meet their requirements.

No protests against the granting of the application have

been received.

Upon the facts presented, the Commission finds that public convenience and necessity require the establishment and operation of a highway common carrier service, as proposed in the application on file in this proceeding.

Arnold W. Ogle, Vard A. Ogle and John W. Banks are hereby placed on 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

Public hearing having been had in the above-entitled proceeding, and the Commission having found that public convenience and necessity so require,

IT IS ORDERED:

1. That a certificate of public convenience and necessity be and it is hereby granted to Arnold W. Ogle, Vard A. Ogle and John W. Banks, copartners, 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 (1) livestock from Covelo and a 30-mile radius thereof to South San

Francisco and (2) general commodities, including livestock and liquid petroleum products (in tank trucks) but excluding uncrated household goods and office equipment, from Petaluma and Santa Rosa to Covelo.

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

- A. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days after the effective date hereof.
- b. Within 60 days after the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicants shall establish the service herein authorized and comply with the provisions of General Orders Nos. 80 and 93-A by filing, in triplicate and concurrently making effective, appropriate tariffs and time tables.
- c. Subject to the authority of this Commission to change or modify it by further order, applicants shall conduct operations pursuant to the certificate herein granted over and along the following route:

Between Covelo and Longvale, Biggar Highway; and between Longvale and South San Francisco, U. S. Highway 101.

The effective date of this order shall be 20 days after the date hereof.

Dated at Los Angeles, California, this 1st day of June, 1949.

[Signature]

[Signature]

[Signature]

[Signature]

COMMISSIONERS