

ORIGINAL

Decision No. 43100

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CHESTER M. MONEZ and CLARENCE E.)
MONEZ, copartners, doing business)
as MONEZ BROTHERS, for a certificate)
of public convenience and necessity)
to operate a highway common carrier)
service for the transportation of)
fresh fruits and vegetables between)
Winters and Oakland and San Francisco,)
and intermediate points.)

Application No. 29902

STEPHEN L. MANA, for applicants.
REGINALD L. VAUGHAN, VARNUM PAUL and JOHN G. LYONS,
by REGINALD L. VAUGHAN, for W. F. Tandy,
Carlton S. Tandy and Albert E. Tandy, doing
business as Tandy Bros. Truck Line, protestant.
EDWARD M. BEROL, for J. J. Leonardini, doing business
as O. K. Trucking Company, protestant.
WILLIAM MEINHOLD, for Southern Pacific Company,
protestant.

O P I N I O N

By the above entitled application, as amended, Chester M. Monez and Clarence E. Monez, partners, doing business as Monez Brothers (hereinafter referred to as Monez or applicant), seek authority to transport fresh fruits and vegetables only, as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, on an "on-call" basis, from Fairfield and Suisun and points within five miles on either side of U. S. Highway No. 40 from Suisun to Fairfield, to San Francisco and Oakland with a return of empty containers.

A public hearing was had before Examiner Paul on April 20 and 26, 1949, and was submitted on briefs, since filed.

The granting of the application was protested by J. J. Leonardini, doing business as O. K. Trucking Company (hereinafter

referred to as Leonardini or O. K.), Tandy Bros. Truck Line and the Southern Pacific Company.

The territory proposed to be served is situated in the Suisun Valley and Green Valley and is composed of farms upon which are grown cherries, apricots, peaches, grapes, apples and figs. The marketing season commences in May and ends in December.

Applicant is presently rendering an automotive service for fresh fruits and vegetables in the proposed area and claims the authority by virtue of a highway contract carrier permit and a radial highway common carrier permit. During the year 1948, applicant served from ten to twelve shippers under oral contracts.

Three trucks and one trailer are being utilized for the present operations, and, according to the testimony of Chester Monez, would be made available for the new service. Shipments destined for the Bay Area would be delivered by the shippers at their convenience, to a cold storage plant, which is owned and maintained by applicant at Rockville, located just north of Cordelia. An "on-call" pickup service would extend five miles on either side of U. S. Highway 40 from Suisun to Fairfield.

Six witnesses for applicant testified that the only existing certificated service from this region to local Bay Area produce markets is rendered by the O. K. Trucking Company. The existing carrier affords a pickup service at two points. During the cherry season a pickup is made at the Cereda ranch, located a short distance outside of Cordelia; with the exception of the cherry season a pickup service is provided at the Suisun Valley Fruit Growers' Exchange. In both instances the farmers haul their fruit to these destinations and load it upon the carrier's truck, which ✓

is spotted at the Cereda ranch between the hours of 5 and 7 p.m. and at the Association's platform between the hours of 3:30 and 4 p.m.

Applicant's shipper witnesses stated that there were usually ten or twelve farmers who arrive at the Cereda ranch at 5 p.m. and wait in line to transfer their fruit to protestant's truck. Besides having to wait their turn the arrangement is further complicated due to the fact that no loading platform is available.

Complaints with respect to the service afforded at the Association's platform may be summarized as follows: the truck is not always waiting at the specified time, as a result the farmers must leave their fruit on the platform without receiving a receipt, and they are often concerned as to whether or not their shipments are picked up; O. K. does not provide a service after the middle of September and there is no way of getting their fruit to market unless they haul it themselves.

These witnesses testified that they used applicant's service under contract in 1948, and found it satisfactory. It was a convenience to deliver to applicant's storage plant and receive receipts for their shipments, without having to wait.

The Southern Pacific Company entered an appearance as a protestant, but otherwise made no showing. Tandy Bros. Truck Line withdrew its protest to the application as amended.

Mr. Leonardini testified that he has transported fresh fruits and vegetables from Winters, Vacaville, Fairfield and Cordelia, including a two mile radius from each point, on the one hand, and Oakland and San Francisco, on the other hand, by virtue

of operative rights long held by him.

Twenty-five pieces of trucking equipment are owned by Leonardini and are available to the existing service; however, of this equipment, only five or six trucks are used in the Winters and Cordelia operation.

Six public witnesses testified on behalf of the O. K. Trucking Company and stated that they were satisfied with the existing service. Because the farmers wait until the end of the day to deliver their fruit, so that nothing will be held overnight, protestant's witnesses felt that the congregation at the Cereda ranch would also result at the applicant's storage plant. They further testified that they had never filed a claim for damage or loss as a result of not receiving a receipt for shipments left at the Association's platform.

According to Leonardini there has been a marked decline of traffic moving from this region to local produce markets since the peak year of 1947. For two weeks prior to the peak period of the cherry season, which lasts about four days, he uses a small truck, which is only partially filled. During the peak period he uses a large truck and trailer or two small trucks. In 1947, the average load of apricots was approximately 20,000 pounds, whereas his truck capacity was 35,000 pounds. The average load for the plum season ran about 9,000 pounds, while the truck capacity was 14,000 pounds.

Leonardini asserted that his pickup service was provided as a convenience to the farmers who requested such an arrangement. He is willing to pickup at the farms, but this is not agreeable to the farmers inasmuch as the trucks damage the trees by breaking

the over-hanging branches when a direct pickup is made. Each year before the fruit season commences he visits each farmer to make the necessary arrangements with respect to the shipping dates and to inquire as to whether they wish boxes delivered to them from the Bay Area. Prior to the end of each season he informs the shippers that he will haul their post-season shipments if they call him, but as yet he has received no requests for this service. After September there is very little moving from this region to the local commission markets.

In support of the contention that the existing service is inadequate, applicant's case was chiefly directed to the dissatisfaction expressed by the farmers with O. K.'s pickup service. In all other respects applicant's witnesses, as well as the witnesses for the protestant, admitted that the existing service was satisfactory. If the policy of the farmers, during the cherry season, is to wait until the end of the day before delivering their fruit to the carrier, then the problem of congregating and waiting in line will not be solved by the certificating of another carrier. Nor does the failure at times to receive receipts justify the granting of this application, when all of the public witnesses, with one exception, testified that no damage or loss resulted as a consequence. The movement after September is admittedly light and insufficient to warrant a regular service. The area is limited and by necessity the shippers are few. An additional carrier would merely dilute the traffic now moving, which at present does not provide a capacity operation for the existing carrier.

After full consideration of all the evidence of record, it is our conclusion that applicant has not shown that public convenience and necessity require the establishment of the service

proposed. Therefore, the application must be denied.

O R D E R

Application having been made as above entitled, a public hearing having been had, the matter having been duly submitted, and the Commission now being fully advised,

IT IS ORDERED that Application No. 29902 be and it hereby is denied.

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

Dated at San Francisco, California, this 6th day of July, 1949.

R. J. [Signature]

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COMMISSIONERS