

ORIGINAL

Decision No. 44241

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. CHRISTENSON CO., a corporation,)
for a certificate of public conven-)
ience and necessity to operate as a)
highway common carrier for the trans-)
portation of various commodities,)
between various points and places in)
California over defined routes.)

Application No. 30872

Willard S. Johnson for applicant.

Wm. Meinhold and Frederick E. Fuhman for Southern Pacific Company and Pacific Motor Trucking Company; Frederick W. Mielke for Delta Lines, Inc. and Valley Express Co. and Valley Motor Lines, Inc.; Douglas Brookman and Frederick W. Mielke for California Motor Express, Ltd.; Douglas Brookman for Merchants Express Corporation; and Rexinald L. Vaughan, Varnum Paul and John G. Lyons for Canton Transbay Express, Inc., Inter-Urban Express Corporation, Peoples Express Co., East Bay Drayage and Warehouse Co., West Berkeley Express and Draying Co., United Transfer Co., Haslett Warehouse Company, Kollogg Express and Draying Co. and Clark Bros. Motor Transport, Inc.

O P I N I O N

J. Christenson Co., a corporation, the applicant herein, was granted a certificate of public convenience and necessity, by Decision No. 43107, dated July 6, 1949, in Application No. 30176, authorizing operations as a highway common carrier for the transportation of certain specified perishable commodities and empty containers (1) between numerous points in central California. The certificate was

- (1) The commodities which applicant was authorized to transport are (a) frozen foods and frozen beverages; (b) eggs in the shell; (c) meat, fresh, smoked, cooked or cured, other than canned; (d) poultry, fresh, dressed; (e) dry ice; (f) dairy products, viz: butter, milk, cream, buttermilk, yoghurt, curd, cheese, with or without fruit or vegetable ingredients; cottage cheese, with or without fruit or vegetable ingredients; pot cheese, ice cream, ice cream mix, ice milk mix and ice water mix; (g) prepared dough; (h) yeast; (i) animal food, fresh, containing meat; (j) empty containers and (k) butter substitutes. The transportation of smoked, cured or preserved meat was subject to a limitation that such commodities shall accompany a
(Continued on Page 2)

subject to the condition, among others, that the line-haul (intercity) transportation of all commodities other than empty containers shall be in insulated equipment under refrigeration.

By its application, as amended, in this proceeding, applicant seeks authority (1) to establish service between Martinez, Benicia, Port Chicago, Pittsburg, Antioch and Reedley, and between said points, on the one hand, and all points which applicant is now authorized to serve as a highway common carrier, and (2) to transport various additional perishable commodities which were not included in the authorization previously granted.⁽²⁾

Public hearings were held before Examiner Bradshaw at San Francisco.

Applicant's equipment, it appears from the record, consists

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- (1) Continued from Page 1.
simultaneous shipment of fresh or frozen meat or poultry from the same consignor at the same point of origin to the same consignee at the same destination.
- (2) The additional commodities are (1) pickled or preserved meat, other than canned; (2) canned pork, other than tongue, deviled ham or sausage; (3) canned meat, other than pork, in mixed shipments with (a) fresh or frozen meat or poultry, or (b) smoked, cured, cooked, pickled or preserved meat, or (c) canned pork, other than tongue, deviled ham or sausage, provided that the canned meat other than pork shall not exceed ten per cent of the weight of any such mixed shipment; (4) prepared fresh salads, other than canned; (5) ice cream flavoring in five or ten gallon milk shipping cans; (6) fresh fruit or vegetable juices in five or ten gallon milk shipping cans or in milk bottles or milk cartons; (7) baked pies; (8) fresh egg meats; and (9) prepared dough with meat, fish, fruit or vegetable ingredients. Applicant does not propose to transport smoked, cured, cooked, pickled or preserved meat, other than canned, between San Francisco and certain East Bay cities or between East Bay cities, except when transported with a simultaneous shipment of fresh or frozen meat from the same consignor to the same consignee. Nor does applicant propose to transport between the same cities shipments of the commodities described in (2) and (3), above.

of 19 tractors, seven trucks, one full-trailer, 30 semi-trailers and ten miscellaneous units. Four of the trucks, the full-trailer and 26 of the semi-trailers are insulated, while 3 of the trucks and 24 of the semi-trailers are equipped with mechanical refrigeration facilities. Applicant's vice president testified that the refrigeration units are thermostatically controlled and capable of maintaining temperatures as low as ten degrees below zero.

Terminal facilities have been established at Oakland, Manteca, Sacramento and Fresno. Pick-up and delivery trucks are maintained in the Bay area. At other points shipments are picked up or delivered with line-haul equipment. Applicant's present rates are, and those proposed to be charged will be, the rates established as minima plus five per cent, with the exception that on empty containers the minimum rates are and will continue to be observed.

According to applicant's vice president, no additional equipment will be required to conduct the proposed operations. An exhibit of record purports to indicate that applicant's revenues during 1949 amounted to \$367,904, as compared with operating expenses of \$353,654. It was asserted that shippers have requested the extension of service to the Benicia - Martinez - Antioch area and also that applicant transport the additional commodities it now seeks authority to carry.

The representative of a cooperative association engaged in shipping dairy products testified that the proposed service to the Benicia-Martinez-Antioch area would be a convenience for the transportation of eggs, because such shipments require temperature control and the Association does not have sufficient accounts in the area to justify operating its own trucks. This witness also stated

that very little fresh poultry business has been done in the same area due to lack of proper transportation facilities.

A dealer in eggs, butter and frozen foods testified that the proposed service would be convenient in shipping to Pittsburg and Port Chicago, especially to military installations, because refrigeration is required on such traffic. This witness now makes occasional use of contract carriers for quantity shipments. Other witnesses stated that the proposed service would be convenient for the shipment of hams, bacon, cheese, eggs, frozen foods and fresh salads.

The traffic manager for a large packing company asserted that difficulty has been experienced in shipping poultry from Turlock to the points proposed to be served, due to the inability to make direct shipments. He also expressed the opinion that the proposed service would result in an increase in shipments of packing house products from South San Francisco to the area involved. A manufacturer of ice cream mix at Galt stated that he is unable to ship to these points, because the present service is unsatisfactory, but believes that he could do so if the proposed service is made available.

A food broker having occasion to ship frozen berries to Reedley, chiefly from Watsonville, testified that he is now using applicant's service, but that he wants it available on a permanent basis.

According to applicant's vice president, requests have been received to transport smoked meats under refrigeration, but applicant has been unable to do so because of the present restriction that such commodities move in mixed shipments with fresh meat. The

traffic manager for a meat packing company testified that the use of refrigerator trucks is the only practical means of transporting smoked meats; that his company has occasion to make straight shipments of these commodities; and that in making shipments it is difficult to segregate the straight and mixed shipments when tendering traffic to transportation companies. The office manager for another meat packing concern asserted that when unable to make up mixed shipments of smoked or cured meats with fresh meats it has been necessary to use railway express service, which is unsatisfactory. He expressed a desire to have applicant's service available for straight shipments of smoked or cured meats, because it is a type of service which has enabled the shipper to increase its business.

Several witnesses testified that canned hams and certain other types of meat composed of pork products must be kept under refrigeration and that, although there are various kinds of canned meats, usually seen on grocers' shelves, which do not require refrigeration, the latter have been subject to a different form of processing. It was stated that labels on cans or shipping packages of products requiring refrigeration usually bear statements "keep under refrigeration" and that shippers have lost some accounts in the San Joaquin Valley, because of spoilage when shipments have not been accorded refrigeration service.

A shipper of fresh prepared salads at Oakland asserted that he makes shipments as far as Salinas and Vallejo. He declared that if proper refrigeration service was available he would also ship to Modesto. According to this witness, the proposed service would assist in developing additional markets for his products. Other witnesses testified that baked pies; prepared dough with meat,

fruit or vegetable ingredients; and fresh egg meat require refrigeration while in transit. The latter commodity, applicant's vice president stated, was omitted from the prior application through oversight.

Various common carriers opposed the granting of the application, but did not offer any evidence. The application having been amended during the course of the proceedings, the only remaining controversy between the parties relates to the proposals with respect to the transportation of meats of various descriptions. Protestants object to the inclusion in a certificate which may be granted to applicant of authority to transport any meat products which do not require refrigeration. They suggest that authority to transport canned pork be restricted to shipments in containers which bear a notation that the contents should be kept under refrigeration. Such a restriction is acceptable to applicant.

Upon careful consideration of the facts presented and the contentions advanced by the parties, the Commission is of the opinion and finds that public convenience and necessity require the establishment and operation of service by J. Christenson Co., a corporation, as a highway common carrier for the transportation of specified commodities between various points as set forth in the ensuing order.

In view of the nature of the authority herein granted and the provisions of the certificate of public convenience and necessity covered by Decision No. 43107 in Application No. 30176, it is deemed advisable that the certificate to be granted in this proceeding embrace applicant's entire operative rights as a highway common carrier and that the certificate previously granted be revoked and annulled.

Applicant also seeks relief from the long-and-short-haul provisions of the Constitution and Public Utilities Act to permit the establishment of lower rates than prescribed from, to or between intermediate points. No showing was made in support of this request. Such authority will, therefore, not be granted in this proceeding.

O R D E R

Public hearings having been had in the above-entitled proceeding, and the Commission, based upon the evidence received, 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 J. Christenson Co., 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

- (a) Frozen foods and frozen beverages;
- (b) Eggs and egg meats, fresh;
- (c) Dry ice;
- (d) Dairy products, viz: butter, milk, cream, buttermilk, yoghurt, curd, cheese, with or without fruit or vegetable ingredients, cottage cheese, with or without fruit or vegetable ingredients, pot cheese, ice cream, ice cream mix, ice milk mix and ice water mix;
- (e) Prepared dough, with or without meat, fish, fruit or vegetable ingredients;
- (f) Yeast;
- (g) Animal food, fresh, containing meat;
- (h) Butter substitutes;
- (i) Salads, prepared, fresh, other than canned;
- (j) Flavoring, ice cream, in milk shipping cans of five gallons or greater capacity;

- (k) Juices, fruit or vegetable, fresh, in milk shipping cans of five gallons or greater capacity, or in milk bottles or milk cartons;
- (l) Pies, baked;
- (m) Poultry, fresh, dressed;
- (n) Meat, fresh;
- (o) Meat, smoked, cured, cooked, pickled or preserved, other than canned;
- (p) Meat, pork, canned, in containers carrying packer's marking indicating that contents should be kept under refrigeration;
- (q) Meat, canned, other than pork, in mixed shipments with:
(1) fresh or frozen meat or poultry; or (2) smoked, cured, cooked, pickled or preserved meat; or (3) canned meat, pork, in containers carrying packers' marking indicating that contents should be kept under refrigeration, provided that such meat, canned, other than pork, shall not exceed ten per cent of the total weight of any such mixed shipment; and
- (r) Empty containers;

between the following points and places:

- (1) Between San Francisco, South San Francisco, Richmond, El Cerrito, Albany, Oakland, Alameda, Emeryville, Berkeley, Piedmont, San Leandro and Hayward, herein-after called San Francisco Bay Cities, via all highways and city streets;
- (2) Between San Francisco Bay Cities, on the one hand, and Stockton and all points on U. S. Highway 50, State Highway 120 and U. S. Highway 99 between Tracy and Stockton, both inclusive, on the other hand via U. S. Highway 50 to Stockton or U. S. Highway 50 and California Highway 120 to Manteca; thence U. S. Highway 99 from Manteca to Stockton;
- (3) Between San Francisco Bay Cities, on the one hand, and Vallejo, Sonoma, Sebastopol and all intermediate points between Vallejo and Sebastopol, on the other hand, via U. S. Highway 40 from Richmond to Vallejo; thence via California Highways 29, 48, 37 and 12 to Sonoma; an unnumbered highway to Petaluma; U. S. Highway 101 to Santa Rosa; and California Highway 12 to Sebastopol;
- (4) Between San Francisco Bay Cities, on the one hand, and San Rafael and all points on U. S. Highway 101 between San Rafael and Petaluma, on the other hand, via (a) Richmond - San Rafael Ferry from Richmond to San Rafael, thence U. S. Highway 101 to Petaluma; or (b) U. S. Highway 101 from San Francisco to Petaluma;

- (5) Between San Francisco Bay Cities, on the one hand, and Salinas, Santa Cruz and all intermediate points along the following routes:
 - (a) From San Leandro to Santa Cruz via California Highway 17; thence California Highway 1 to Watsonville; an unnumbered highway commonly known as Chittenden Pass to junction with U. S. Highway 101 approximately 8 miles south of Gilroy; and U. S. Highway 101 to Salinas; and
 - (b) From San Francisco to Salinas via U. S. Highway 101, on the other hand;
- (6) Between San Francisco Bay Cities and Stockton, on the one hand, and Sacramento and all intermediate points between Stockton and Sacramento, on the other hand; via U. S. Highways 50 and 99, serving Suisun-Fairfield, Vacaville, and Woodland as off-route points;
- (7) Between San Francisco Bay Cities, Sacramento and Stockton, on the one hand, and Tulare and all intermediate points between Sacramento and Tulare, on the other hand, via U. S. Highway 99 with service from and to the off-route points of Visalia, Hanford, Armona, Lemoore, Sanger and Reedley;
- (8) Between San Francisco Bay Cities, on the one hand, and Walnut Creek, Concord, and all intermediate points via California Highway 24, on the other hand, with service from, to and between the off-route points of Martinez, Benicia, Port Chicago, Pittsburg and Antioch.
- (9) All points and places on and within five miles laterally of the routes and points specified in subparagraphs (1) through (8), above, and
- (10) Locally between all points embraced in subparagraphs (1) through (9).

2. That the certificate herein granted is subject to the following conditions and limitations:

- (a) The line-haul (intercity) transportation of all commodities other than empty containers shall be in insulated equipment under refrigeration;
- (b) Applicant shall not transport any shipment of the commodities specified in paragraph 1 (c) of this order except when transported with a simultaneous shipment of fresh or frozen meat or poultry from the same consignor to the same consignee between any of the following cities: San Francisco, Richmond, El Cerrito, Albany, Oakland, Alameda, Emeryville, Berkeley, Piedmont, San Leandro and Hayward; nor shall applicant transport any shipment of the commodities described in subparagraphs 1 (p) and 1 (q) between any of said cities;

- (c) Applicant shall not transport any shipment of evaporated or condensed milk, except when shipped and transported in milk shipping cans of five gallons or greater capacity.

3. That in providing service pursuant to the certificate herein granted, J. Christenson Co. shall comply with and observe the following service regulations:

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days after the effective date hereof;
- (b) 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 after the effective date hereof, and on not less than five (5) days' notice to the Commission and the public.
- (c) Subject to the authority of the Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the routes enumerated in Paragraph 1 of this order and, in addition, may operate over and along the following alternate routes:

Between Vallejo and Santa Rosa - California Highways 29 and 12.

Between Vallejo and Sacramento - U. S. Highway 40.

Between Concord and Sacramento - California Highway 24.

Between Martinez and Mission San Jose - California Highway 21.

Between Hayward and Warm Springs - unnumbered highway via Niles and Mission San Jose.

Between Niles and California Highway 21 approximately three miles east of Niles - unnumbered highway.

Between Livermore and Mission San Jose - unnumbered highway.

Between Manteca and Vernalis - unnumbered county road.

Between Vernalis and Modesto - California Highway 132.

Between Crows Landing and Modesto - unnumbered road.

Between Newman and Livingston - unnumbered road.

From Merced southerly through El Nido to California Highway 152 - unnumbered road.

Between Watsonville and Califa-California Highway 152.

From Watsonville to Salinas - California Highway 1 to Castroville, thence unnumbered road.

Between Lemoore and Fresno - California Highway 41.

Between Armona and Fowler - unnumbered road.

Between Hanford and Kingsburg - unnumbered road.

Between Fresno and Sanger - California Highway 180.

Between Sanger and Kingsburg - unnumbered road.

Between Los Gatos and Sunnyvale - unnumbered road.

Between Lemoore and Visalia - California Highway 198.

Between State Highway 152 and U. S. Highway 50 - California Highway 33.

4. That the foregoing certificate is granted in the place and stead of the highway common carrier operative rights heretofore granted to J. Christenson Co. pursuant to Decision No. 43107, dated July 6, 1949, in Application No. 30176, and that paragraphs 1 to 3, inclusive, of the order contained in said decision are hereby revoked and annulled.

5. That in all other respects the application, as amended, in this proceeding be and it is hereby denied.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 26th day of May, 1950.

R. E. Anderson
Justus J. Callahan
Robert T. Dwyer
Harold K. Kula
Frederick L. Little
Commissioners