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Decision No. 12298

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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MOTOR TRANSIT COMPANY, a corporation,)

Complainant :

vs.)

Case No. 1830

FRANK S. SNELL, :

Defendant.)

Kidd and Hardy, by Rex Hardy, for Complainant

Frank S. Snell and W. Cloyd Snyder for Defendant

BY THE COMMISSION,

O-P-I-N-I-O-N

Motor Transit Company, a corporation, complains of defendant and alleges that for approximately six months prior to October 24, 1922 defendant has been operating lines of auto stages between the City of Los Angeles and Big Bear Valley in the San Bernardino Mountains in the hauling and transportation of passengers for compensation; that such operation is over a regular route and between fixed termini; that defendant purports to be operating a sight-seeing line as defined in Chapter 213, Statutes of 1917, and amendments thereto, which exempt such operation from the necessity of procuring certificate of public convenience and necessity from this Commission; that the operations of the defendant are those of a common carrier and as a motor transportation company as defined in the said legislative enactments; that defendant was not

operating on May 1, 1917 and has since received no certificate from this Commission and is therefore operating in violation of the statutory law. Complainant prays for an order declaring that the operations of defendant are not those of a sight-seeing line in good faith but are those of a common carrier or of a motor transportation company; that the Commission has jurisdiction over such operations; that the Commission find and determine that the alleged operation by defendant is illegal; and that the defendant be ordered to discontinue such operation.

Public hearings in the above entitled proceeding were conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Witnesses for complainant testified as to the operation by defendant of automobiles between Los Angeles and San Bernardino Mountain resorts during the 1922 season and that cars of defendant were observed daily either on the road or at some of the various resorts. Some of these witnesses had made the trip from Los Angeles with defendant, although none made the return journey or attempted to secure refund for the unused portion of their round trip ticket or for any of the meal or lodging accommodations included in the ticket. There was no evidence that any passengers had been transported locally between Los Angeles and San Bernardino Mountain points, all the evidence showing that tickets for the entire trip were purchased and that such tickets included, in addition to the transportation, meals en route in both directions and a minimum of one night's accommodation at any resort or camp selected by the purchaser of the ticket.

Frank S. Snell, Jr., defendant herein, testified as to the character of operation as conducted by him during the period covered by the complaint. It appears that a through trip was

offered from Los Angeles to any resort selected by the patron; that coupon tickets were issued covering the round trip transportation; meals en route and lodging or hotel accommodations at Big Bear Valley points for such periods as might be desired by passengers and in all cases covering at least one night's accommodation. The price of the trip varied as to the particular resort and length of stay thereat desired by his patrons. Defendant testified that at no time did he ever transport patrons without furnishing tickets and that such tickets and the compensation received therefor always included the value of meals en route and resort or camp accommodations. No transportation of passengers from Los Angeles to San Bernardino Mountain points, or in the reverse direction, was ever made, patrons in all instances purchasing the tickets for the full round trip including meals and resort or camp accommodations.

A driver who had been employed by defendant also testified that no local passengers had ever been transported by him nor any passengers unless they held tickets with coupons thereon for meals and resort or camp accommodations.

Exhibits were filed by defendant consisting of ticket stubs, form of ticket used, coupons for accommodations, and cancelled checks paid to resort and camp proprietors for accommodations furnished patrons of defendant.

It appears from the evidence herein that the defendant has not been engaged in the business of a transportation company as defined by paragraph (c) of Section 1 of Chapter 213, Statutes of 1917, as amended, in that all service rendered to his patrons has covered a touring trip in which meals and accommodations have been furnished as a portion of the items included in the value of the ticket; that no transportation has been furnished unless patrons purchased tickets for the entire trip, including meals and accommodations; and that defendant, in good faith has furnished the character of trip offered to his patrons and has assumed the

cost of meals and accommodations which were furnished patrons using his service.

Under the state of facts presented by all the evidence in this proceeding, we are of the opinion and hereby conclude that the operation of defendant as complained of is not that of a transportation company as defined by the statute and that the complaint should therefore be dismissed.

O-R-D-E-R

Public hearings having been held on the complaint herein, the matter having been duly submitted and the Commission now being fully advised and basing its order on the findings and conclusion as set forth in the opinion which precedes this order,

IT IS HEREBY ORDERED that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this 3rd day of July, 1923.

W. S. Sawyer
H. B. ...
E. ...
J. P. Whittier
Commissioners