

Decision No. 12486

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of )  
PASADENA TRANSFER & STORAGE COMPANY, )  
a corporation, for certificate of :  
public convenience and necessity to :  
operate freight, express and baggage )  
service between Pasadena and Los :  
Angeles, California. :

Application No. 8301.

Dunham and Thompson, by Raymond G.  
Thompson, for Applicants.

W. E. Libby and E. N. Blair, for  
Pasadena Electric Express,  
Joe and Ed's Express and  
Hodge Transportation Com-  
pany, Protestants.

E. T. Lucey, for A. T. & S. F.  
Railway, Protestant.

C. H. Tribit, Jr., for Richards  
Trucking and Warehouse  
Company, Protestant.

BY THE COMMISSION:

OPINION ON REHEARING.

On December 29th, 1922, the Commission issued its  
Decision No. 11422 in the above entitled proceeding, finding  
that applicant possessed a valid prescriptive right to trans-  
port freight, express and baggage between Pasadena and Los  
Angeles, that a certificate of public convenience and necessity  
therefore was not required by applicant and by order directing  
applicant to "file copies of its tariff and time schedules  
within ten days from date hereof."

On January 30, 1923, Petition for rehearing was filed  
by the Pasadena Electric Express, Joe and Ed's Express and  
Hodge Transportation System alleging, as grounds for rehearing,

new evidence, errors in the conduct of the hearing, and this petition was granted by the Commission.

Thereupon the Commission set the matter for a rehearing before Examiner Williams at Los Angeles, at which time petitioners appeared and presented their testimony. Pending decision on the petition for rehearing, the order in Decision No. 11422 was continued in force. The evidence adduced on rehearing does not materially change the facts in relation to applicant's prescriptive right and justifies no modification of the order in that respect. That applicant was operating in good faith on May 1, 1917, as required by Chapter 213 of the Acts of 1917 was abundantly proved and not effectively disputed in the evidence on rehearing. This being established, after petitioners were given full opportunity to present their new testimony and meet every issue raised in their petition, the remaining question to determine is what right vested in applicant on May 1, 1917, and how fully such right had been preserved by applicant since.

The testimony shows that on the date above mentioned and long prior thereto, applicant was maintaining daily freight, express and baggage transportation service, using one or more vehicles between Pasadena and Los Angeles over the route fixed in Decision No. 11422, and that a depot was maintained at Los Angeles. While the testimony as to the schedule of operation and the rates charged is uncertain in some respects, it seems clear enough to establish a conclusion that the schedule called for a morning trip to Los Angeles and a return trip about noon or soon thereafter. This daily service has continued uninterruptedly ever since and this has preserved the operating right vesting prior to May 1, 1917; also, that the rates established

May 1, 1917, for the services offered the public were as follows:

	<u>each</u>	<u>Per 100 pounds.</u>
Trunks.....	.75	
Suit Cases and Bags with Trunk	.25	
Suit Case or Bag alone.....	.50	
Auto Tires.....	.05	
Household Goods, crated, over one ton		.20
Household Goods, crated, less than one ton lots		.25
General Merchandise, over one ton..		.10
General Merchandise, less than one ton lots.....		.15
Minimum charge on any single ship- ment..	.25	

That these rates were then established was the testimony of R. R. Sutton, who has been manager of applicant's business for twelve years. That they were not collected at all times before or since is manifest from an exhibit (Applicant's No. 3, filed on rehearing) covering stipulated periods from January, 1916, to January, 1923. This exhibit is deficient in that it does not give the weight of the articles transported (which, applicant states, was not a matter of record) and hence computation of most of the rates charged is mere conjecture. It is also apparent that subsequent to 1917 these rates were increased (admitted by applicant) in both minima and other amounts. This was during a period when applicant regarded its operations as not under the jurisdiction of the Commission and had filed no tariffs. If applicant now finds itself forced to restore its tariffs to the scale established on May 1, 1917, it can blame no one but itself. Its legal duty in May, 1917, was to tender its tariff to the Commission and this tariff would have been subject to alterations

by authority of the Commission thereafter upon good cause shown. Upon its establishment of the rates set forth in the opinion it will be in a position to make application for such alterations as may be necessary for the proper maintenance of its business, but until such application is made and decision reached by the Commission the rates established shall be the only ones to be charged and collected.

ORDER ON REHEARING.

Pasadena Electric Express, Joe and Ed's Express and Hodge Transportation System having applied for a rehearing in the above entitled matter, such rehearing having been held, the matter being duly submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED, that Decision No. 11422, dated December 29, 1922, be, and the same is hereby modified and amended by striking out thereof the words

"It is hereby ordered that applicant file copies of its tariff and time schedules within ten days from date hereof."

And by inserting in lieu thereof the following:

"It is hereby ordered that applicant file copies of its tariff as of May 1, 1917, as follows:

	<u>each</u>	<u>Per 100 pounds.</u>
Trunks.....	.75	
Suit cases and Bags with Trunk....	.25	
Suit Case or Bag alone...	.50	
Auto Tires.....	.05	
Household Goods, crated, over one ton.....		.20
Household Goods, crated, less than one ton lots.		.25
General Merchandise, over one ton.....		.10
General Merchandise, less than one ton lots...		.15
Minimum charge on any single shipment.....	.25	

together with its time schedules, within ten days

from date hereof."

IT IS FURTHER ORDERED that the petition of Pasadena Electric Express, Joe and Ed's Express and Hodge Transportation System for the modification of Decision of Decision No. 11422 be and it is in all other respects denied.

Dated at San Francisco, California, this 14<sup>th</sup>  
day of August, 1923.

C. Deaver  
H. B. Blanding  
Dwight Martin  
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