

Decision No. 12827

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HODGE TRANSPORTATION SYSTEM,  
Complainant,

-vs-

UPLAND TRANSFER COMPANY,  
CUSHING TRANSFER COMPANY,  
Defendants.

ORIGINAL  
Case No. 1928.

F. M. Hodge, for Complainant.

Elmer P. Bromley, for Defendants.

SHORE, Commissioner:

OPINION

The above complaint alleges in effect that Upland Transfer Company and Cushing Transfer Company engage in the business of owning, controlling, operating or managing automobile trucks used in the business of transporting property for compensation over the public highways and over regular routes between points within Riverside and San Bernardino Counties and the harbor district of Los Angeles at Wilmington and San Pedro.

The matter was set for public hearing on August 23, 1923 at Los Angeles, at which time it was submitted upon stipulation entered into by complainant and defendants and

the filing of briefs. Such briefs have been duly filed and the matter is now ready for decision.

The stipulation entered into between complainant and defendants provides in part as follows:

Paragraph 4 - "That said defendants, Upland Transfer Company and Cushing Transfer Company have no fixed or established or regular route between places within Riverside and San Bernardino Counties and the harbor district at Los Angeles at Wilmington and San Pedro or elsewhere."

Paragraph 6 - "That said defendants, and each of them, are not operating under a regular or fixed schedule and that they are not operating between any fixed termini."

Sub-section "c" of Section 1, Chapter 213, Statutes of 1917, as amended, defines the term "transportation ~~company~~ company" as follows:

"The term 'transportation company', when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing, any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route \* \* \* \* \*"

It will accordingly be seen that to become a transportation company as defined in the above quotation a person or corporation must be engaged in the business of operating trucks for the transportation of persons or property, for compensation, over a regular route or between fixed termini. The stipulation as to facts entered into between complainant and defendants in this proceeding specifically sets forth that defendants herein are not engaged in the business of operating trucks for the

transportation of property for compensation over a regular route or between fixed termini.

The final brief filed on behalf of complainant quotes in detail this Commission's Decision No. 12700 in Case No. 1787, Bolton & Bennets v. Olson et al., in which decision this Commission held that defendants therein named were engaged in the business of operating trucks for the transportation of property for compensation and that inasmuch as no certificate had been secured their operations were in violation of the state law. Said decision has no bearing on this proceeding in that in said decision the Commission specifically found that defendants therein named were operating their trucks for the transportation of property for compensation over a regular, definite route and between fixed termini. The stipulation as to facts entered into in the present proceeding definitely states that defendants herein are not operating their trucks over a regular route or between fixed termini, which leaves this Commission with no alternative than to dismiss the proceeding, and an Order will be entered accordingly.

I herewith submit the following form of Order.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted on stipulation of facts and briefs, the briefs having been filed and

the matter being now ready for decision.

IT IS HEREBY ORDERED that the above entitled matter be, and the same hereby is, dismissed.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16<sup>th</sup> day of November, 1923.

C. A. Seaver

H. P. Bunnell

Irving Masterson

Egerton Shore

J. T. Whittney  
Commissioners.