

Decision No. 14321

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

A. W. WAY doing business under
the name and style of Way's Fern-
dale-Loleta-Eureka Freight Service,

Complainant,

-vs-

G. M. BRICE and GEORGE P. HAYWOOD,

Defendants.

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)
Case No. 2001
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J. J. Cairns for Complainant

Pierce H. Ryan for defendants.

MARTIN, Commissioner:

O P I N I O N

The above entitled complaint alleges in effect that defendants G. M. Brice and George P. Haywood are the owners and operators of automotive trucks engaged in the transportation of property for compensation between Eureka and Ferndale and intermediate points, California, in violation of the provisions of Chapter 215, Statutes of 1917, and amendments thereto, in that they have not secured a certificate from the Railroad Commission authorizing them to engage in such business nor were they operating in good faith as of May 1st, 1917, and continuously thereafter.

Defendants have both filed formal answers in which they allege that they are not operating in violation of the provisions of the above mentioned statutory enactment; that defendant

charging a rate per thousand feet on lumber and a rate of 12¢ per tie on ties hauled. Defendant Haywood conducts a brick, coal, lime, cement and hay business in Ferndale and in connection therewith transports a considerable amount of his own property from Eureka. It is clear that all property transported by defendant Haywood which he owns himself is not in violation of the provisions of the Auto Stage and Truck Transportation Act nor is transportation of property by defendant under contract with the Government to the lighthouses on Eureka Bay or points intermediate, Eureka to Ferndale in violation of the provisions of the above named statutory enactment.

Defendants, however, contend that due to the fact that the property transported by them from Eureka to Ferndale was transported under what they term "special contracts" with one party, that they were not operating as common carriers nor holding themselves out as engaging in the transportation of property for compensation between the termini of Eureka and Ferndale. This contention is not supported in fact nor in law in view of the amendment, Chapter 280, Statutes of 1919, to Chapter 215, Statutes of 1917, which provided that not only common carriers holding themselves out as generally engaged in the transportation of property fell within the provisions of the Auto Stage and Truck Transportation Act, but also so-called "contract carriers" who were transporting property for compensation over a regular route or between fixed termini. This would in effect cover the transportation engaged in by defendants under so-called "special contracts" and such operation is in violation of the provisions of the existing Auto Stage and Truck Transportation Act and should be immediately discontinued and an order will be entered accordingly.

G. M. Brice holds a certificate authorizing the operation of automotive freight and passenger service between Fernbridge and Ferndale, Fernbridge being an intermediate point to Eureka; that at times he has under special contract transported property for one party only between Eureka and Ferndale.

Defendant George P. Haywood states in his answer that he operates trucks in the City of Ferndale; that his trucks are used to transport property owned by himself between Eureka and Ferndale; that on infrequent occasions he has hauled property for others for compensation between Eureka and Ferndale.

A public hearing on the above entitled proceeding was held at Eureka on June 18, 1924, at which time the matter was submitted and it is now ready for decision.

Testimony introduced at the hearing tended to show that both defendants had at various times operated trucks in the transportation of property between Eureka, Ferndale and intermediate points. It appears that defendant Brice had also transported property from Eureka to the United States Government Lighthouse located on Table Bluff and also transported property under contract for the Government to the Lighthouse located at Point Gorda. All property transported to the lighthouses above mentioned was under contract with the United States Government. Further that said Brice had also transported property for compensation from Eureka to Ferndale under contract for the Russ-Aggler-Williams Company and for the Marcussen Grocery Company; also feed for Eureka wholesale houses destined to creameries.

It appears from the testimony introduced in this proceeding that defendant Haywood has been transporting lumber for the Holmes-Eureka Lumber Company between Eureka and Ferndale; also ties from points situated intermediate to Ferndale and Eureka,

O R D E R

A public hearing having been held in the above entitled proceeding, evidence submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that defendants G. M. Brice and George P. Haywood be and they hereby are directed to immediately discontinue transportation of property for compensation over a regular route or between fixed termini and specifically over the regular route between the fixed termini of Eureka and Ferndale and intermediate points thereto with the exception of defendant G. M. Brice between Fernbridge and Ferndale over which territory he holds a certificate authorizing such operation.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission be and he hereby is directed to serve a certified copy of the within Order by registered mail upon the District Attorney of Humboldt County, California.

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 2nd day of December, 1924.

Al Seamey
H. R. Brundage
Dwight Martin
Egerton Schore

Commissioners