

Decision No. 15166

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

COASTSIDE TRANSPORTATION COMPANY, )  
Complainant, )  
vs. )  
MANUEL BELLO, )  
Defendant. )

Case No. 2053

Harry A. Encell and James A. Miller, by  
James A. Miller, for Complainant,  
Sanborn & Rochl and De Lancey C. Smith,  
by De Lancey C. Smith, for Defendant.

SEAVEY, Commissioner -

O P I N I O N

Coastside Transportation Company, a corporation, operating and rendering an automobile passenger, freight and express service as authorized by the Railroad Commission between San Francisco and Pigeon Point and intermediate points by way of Salada and Moss Beach and also between San Francisco and Pigeon Point, by way of Colma, San Mateo and Half Moon Bay, makes complaint in which it alleges that Manuel Bello has for some time past been engaged in the business of owning, controlling, operating or managing automobile trucks in the business of transporting property, or as a common carrier, for compensation over the public highways over a regular route between the City and County of San Francisco and the town of Half Moon Bay without having obtained a certificate of public convenience and necessity from this Commission authorizing said operations. Complainant prays that the Railroad Commission, after due hearing and investigation, issue its order compelling defendant to cease and desist in his operations as a transportation company, or as a common carrier, of property for compensation and for such further order as may be proper.

Defendant in his answer makes general denial of the matters and allegations contained in the complaint.

A public hearing was held in this matter at San Francisco, was duly submitted following the receipt of briefs, and it is now ready for decision.

The evidence presented by complainant in Case No. 2053 shows that Manuel Bello has transported various commodities from and to San Francisco and other points to Half Moon Bay for several years. Cereal beverage has been transported from Milwaukee Brewing Company at San Francisco to a distributor at Half Moon Bay, the distributor paying transportation charges for the beverage and the Brewing Company paying for the return of the empty cases. These operations have been carried on for about seven years, as demands for the service required.

Ice has been transported for about seven years from San Francisco to Half Moon Bay, and from January 4th to November 26th, inclusive, 1934, the consignments totaled 54, the dates of consignment indicating a regularity of service.

Omitting detailed mention, the record discloses transportation by defendant Manuel Bello from San Francisco to Half Moon Bay of machinery and parts, flour, general merchandise, electric supplies and equipment, metal and other commodities. San Francisco in all cases was not a terminal, shipments being made via defendant's truck from or to Gilroy, San Jose, San Leandro and other points to or from Half Moon Bay in addition to the San Francisco-Half Moon Bay service.

Defendant Manuel Bello, testifying in his own behalf, agreed with the testimony given by complainant's witnesses as to his operations and service. He stated that he had been engaged in general trucking business since 1916, the equipment consisting of one truck. No regular schedule was maintained as he went "all around the country any place I can get a job," and trips to and

from San Francisco were made "any time anybody calls on me."

The record is clear that defendant, Manuel Bello, has transported by auto truck various commodities for compensation over the public highways and has so continued for several years without a certificate of public convenience and necessity from this Commission as required by the provisions of Chapter 213, Statutes of 1917, and effective amendments thereto. The contention that this service is not regular, or on demand, cannot be seriously considered, the service having been rendered with sufficient regularity so that it was an accepted method of receiving and shipping certain commodities. Transportation may be furnished "on demand" and certain automobile carriers are so authorized to operate by this Commission. Even if the service rendered were irregular, that would not relieve the defendant from complying with the provisions of Chapter 213, Statutes of 1917, and effective amendments thereto, and as the Commission has passed upon this matter in past decisions, further discussion is not necessary.

At the hearing in this matter certain witnesses expressed dissatisfaction with the service and tariffs of rates of complainant, Coastside Transportation Company. Dissatisfaction with the service and rates of an authorized carrier has no bearing in this proceeding. The proper form and method of seeking relief, if necessity exists therefor, is by instituting an appropriate proceeding before this Commission against the authorized carrier.

After full consideration of the record herein, I am of the opinion and hereby find as a fact that defendant herein, Manuel Bello, has been engaged in the transportation of proper<sup>ty</sup>/for compensation over a regular route and between fixed termini without having first secured a certificate of public convenience and necessity from the Railroad Commission authorizing such transportation as required by the provisions of Section 5 of

Chapter 213, Statutes of 1917, and amendments thereto, and that the operations of defendant are unlawful and in violation of said Chapter 213, Statutes of 1917, and amendments thereto.

I recommend the following form of order:

O R D E R

A public hearing having been held upon the foregoing entitled proceeding, evidence taken, briefs having been filed and the Commission being now fully advised, and basing its order on the finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Manuel Bello, be and he is hereby directed to immediately and permanently discontinue said service until such time as he shall have secured a certificate of public convenience and necessity in compliance with the provisions of Chapter 213, Statutes of 1917, and effective amendments thereto; and

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission be and he hereby is directed to forward by registered mail a copy of the within decision to the District Attorney of the City and County of San Francisco and to the District Attorney of the County of San Mateo, California.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

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 10th day of

July, 1925.

W. B. ...  
George W. Quinn  
Edward ...