

Decision No. 15289

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of J. R. TEDRICK for temporary)
certificate of public conve-)
nience and necessity to operate)
passenger automobile service be-)
tween Whittier and Barton Flats,)
San Bernardino mountains.)

APPLICATION NO. 11231

J. R. Tedrick, Applicant, in Propria Persona.

R. E. Wedekind and E. O. Marler, for Pacific
Electric Railway Company, Protestant.

Herbert W. Kidd, for Motor Transit Company,
Protestant.

BY THE COMMISSION:

O P I N I O N

J. R. Tedrick has made application to the Railroad Commission for a temporary certificate of public convenience and necessity to operate passenger automobile service between Whittier and Barton Flats, a summer camp in the San Bernardino mountains.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

Applicant herein contracted with the Whittier Y. M. C. A. on May 12, 1925, to furnish transportation for boys and girls from Whittier to Barton Flats for \$5.00 per passenger for the round trip. The contract called for eleven consecutive trips, on Mondays, beginning June 22 and ending August 31. The Y. M. C. A. agreed to furnish a minimum of twenty campers for each trip, with

the exception of the first return trip and the last going trip.

Applicant testified that under this contract he began service and made four round trips between Whittier and a point three miles from Barton Flats, receiving therefor a total of \$252.00. He further admitted that on June 10 he was advised by Mr. W. F. Lemon, assistant service inspector of this Commission, that the service proposed by him was illegal unless a certificate should first be obtained.

Applicant filed his application with this Commission on June 15 through F. E. Gates, secretary of the Y. M. C. A., to whom acknowledgment of receipt was made. Applicant testified that he construed this acknowledgment as authority for him to begin operation, and thereupon began the service contracted for, using a bus of 25-passenger capacity, although the testimony showed that at times he carried 33 passengers in the vehicle in this service. The testimony further showed that applicant had great difficulty in operating the bus up the steep grades, and that vehicles of protestant Motor Transit Company, operating over the same route, had once or twice relieved him of passengers as an accommodation. It was further shown by the testimony that applicant, when having difficulty in climbing mountain grades, permitted boys and girls to alight from the vehicle and place rocks under the rear wheels, and then re-enter the vehicle after the same was in motion. The children were not delivered to Barton Flats camp, but were deposited three miles therefrom and required to walk to the camp. Mr. Gates, secretary of the Y. M. C. A., testified that this termination was fixed by him with a view to giving the children a short hike after the

long stage ride, and not to relieve applicant of any part of his duty.

Previous to making the contract with applicant, the Y. M. C. A. requested protestant Motor Transit Company to submit rates for this service. Mr. Max H. Green, traffic manager for this protestant, quoted a rate of \$7.20 per passenger for the round trip. The distance to be traversed on the round trip is approximately 160 miles. Mr. Green testified that the passengers would be transferred at San Bernardino, due to the fact that protestant does not use the same equipment in its mountain service that it uses in its service over less hazardous routes, the mountain equipment being specially constructed and provided with extra brakes as a matter of safety. Witness further testified that this protestant would have been willing to make special excursion arrangements with the Y. M. C. A., but that negotiations terminated after their first submission of rates. He testified that protestant had ample equipment to perform any service required over its route and was always ready to make the most economical arrangement possible for mountain camp transportation; and further, that inasmuch as it possessed equipment and held itself in readiness to perform mountain service, it felt injured by the operation of applicant herein.

Mr. Gates testified that the Y. M. C. A. had no knowledge that it was participating in an illegal service and that it would not knowingly so participate; that the funds available for maintaining the boys' and girls' camp were limited and that the effort had been to reduce transportation cost to the lowest possible point; and that he believed applicant, by the rate he quoted, intended a substantial donation toward maintenance of the

camp. Witness further testified that applicant had transported parties for the Y. M. C. A. many times in the past six years, without accident.

Applicant formerly operated under certificate from this Commission an automobile passenger service between Whittier and the Murphy-Coyote oil fields. He was also an applicant for a certificate to operate a passenger service between Whittier and the Santa Fe Springs oil fields, which application was dismissed by the Commission at the request of applicant after it had been shown in hearing that applicant had already begun service without authority from this Commission.

Ignorance of the law cannot be ascribed to applicant, because, according to the testimony of Mr. Lemon, he was advised, at least twelve days prior to beginning service, that the proposed operation was illegal, and similar information was left at the office of the Y. M. C. A. Applicant's plea that he construed acknowledgment of the receipt of the application as authority to begin service cannot be seriously received by this Commission. He was admonished at the hearing to desist from operation, and the Y. M. C. A. was admonished to seek authorized carriers for transportation services.

The case under consideration herein is typical of the cases frequently encountered, showing contempt for the law regulating transportation over the public highways. Applicant sought to take over a large volume of traffic which protestants Motor Transit Company and Pacific Electric Railway Company have provided facilities to handle, and began the service without the slightest authorization under the law. Under the cir-

cumstances there is nothing to do but deny the application herein.

We therefore find as a fact, upon the record herein, that public convenience and necessity do not require the service proposed by applicant, and that the application should therefore be denied. An order will be so entered.

O R D E R

J. R. Tedrick having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile passenger service between Whittier and Barton Flats, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity do not require the service proposed by applicant herein; and

IT IS HEREBY ORDERED that the application be and the same is hereby denied.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 15th day of August 1925.

C. S. Lewis

George W. Tipton

Leon Whitell

Commissioners.