

Decision No. 16332

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of CLARENCE E. HARTMAN for a cer-)
tificate of public convenience)
and necessity to operate a freight)
and trucking service between the)
city of Los Angeles and Burbank,)
California, or to the location of)
other canneries in Southern Cal-)
ifornia.)

APPLICATION NO. 11261.

ORIGINAL

Earl D. Killion, for Applicant.

Phil Jacobson, for Franchise Motor Car-
riers' Association and San Fernando
Haulage Company, Protestants.

D. W. Layne, for Pacific Electric Rail-
way Company, Protestant.

H. J. Bischoff, for W. & S. Truck Com-
pany, Protestant.

BY THE COMMISSION:

O P I N I O N

Clarence E. Hartman has made application to the Rail-
road Commission for a certificate of public convenience and
necessity to operate a freight and trucking service between the
city of Los Angeles and Burbank, and to the location of other
canneries in Southern California.

A public hearing herein was conducted by Examiner Wil-
liams at Los Angeles.

Applicant for five years has conducted a local trucking service in and about Lankershim, which is now, by annexation, incorporated within the municipal limits of the city of Los Angeles. Approximately nine-tenths of his business is to points in the city of Los Angeles, and therefore not within the jurisdiction of this Commission. The remainder of the operation has consisted of the transportation of green fruits and vegetables from points of production in the city of Los Angeles and adjacent portions of Los Angeles County, to canneries at Burbank. Very infrequently applicant has transported surplus perishable fruits or vegetables from Burbank to Chino, these movements always arising from emergencies. Other movements performed by him outside the city of Los Angeles have been deliveries of sand and building materials for the Blanchard Lumber Company at Lankershim. Applicant in one season transported fruit from Fillmore and green peppers from Garden Grove, and several times has transported grapes from the San Fernando Valley to Los Angeles harbor. He has also transported occasional loads of furniture to Burbank, Glendale, the city of San Fernando, Redondo, Long Beach, Saugus and Inglewood.

G. W. Duernberger, superintendent of the Libby, McNeill & Libby cannery at Burbank, testified that applicant has been employed by him at various times, transporting field and orchard products to this cannery and occasionally moving surplus fruit or empty boxes between the Burbank cannery and the Chino cannery of this company. This witness testified that the rates proposed by applicant were the rates he had been paying.

R. W. Blanchard of the Blanchard Lumber Company testified that this company maintains its own delivery trucks, but

frequently, in emergencies, uses applicant's trucks to make deliveries in Burbank, Glendale and other nearby points.

Applicant proposes a schedule of rates based upon block distances up to 55 miles, with a minimum of 4 tons, also time rates per hour for the various sizes of trucks. He possesses two trucks and one trailer of a total rated capacity of $7\frac{1}{2}$ tons.

Applicant offers no service between fixed termini or over regular routes. The service proposed is exclusively upon demand or call of the customer. The record indicates, however, that applicant is now, and for several years has been, transporting property between Los Angeles and Burbank. While this movement between the two cities affects only the region of Los Angeles known as the San Fernando Valley, and while Los Angeles and Burbank are contiguous, it is, nevertheless, a general movement from one city to the other, and therefore is in the nature of a movement between fixed termini. Applicant testified that this movement of fruits and vegetables, all destined to the cannery or railroad sidings at Burbank, amounted to between 300 and 600 tons yearly. It appears that this portion of his operation comes within the purview of the Auto Stage and Truck Transportation Act and that a certificate is required therefor. It further appears from the record that there is an affirmative showing of public convenience and necessity for this portion of his service and that a certificate accordingly should be granted. In all other respects applicant's service does not come within the purview of the law or the jurisdiction of this Commission.

We therefore find as a fact, upon the record herein, that public convenience and necessity require the operation of

a freight truck service as proposed by applicant, for the transportation of fresh fruits and vegetables between Los Angeles and Burbank, and further, that the other operations proposed by applicant are not such as to bring him under the jurisdiction of this Commission.

O R D E R

Clarence E. Hartman having made application to the Railroad Commission for a certificate of public convenience and necessity to operate a freight and trucking service between Los Angeles and Burbank and to the location of other canneries in Southern California, 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 require the operation of a freight and trucking service as proposed by applicant herein, for the transportation of fresh fruits and vegetables only between Los Angeles and Burbank, (provided, however, that such service shall be limited to that portion of the city of Los Angeles north of Ventura Boulevard prolonged easterly to San Fernando Road, and shall extend to no other part of said city) over and along the following route:

Via Magnolia Avenue or San Fernando Road; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

- I. Applicant shall file with this Commission, within twenty (20) days from date hereof, his written acceptance of the certificate herein granted; shall file, in duplicate, time schedules and tariff of rates identical with those as set forth in Exhibit attached to the application herein, within a period of not to exceed twenty (20) days from date hereof; and shall commence operation of the service hereby authorized within a period of not to exceed thirty (30) days from date hereof.
- II. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- III. No vehicle may be operated by applicant under the authority hereby granted unless such vehicle is owned or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the application herein be and the same hereby is dismissed for lack of jurisdiction.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 30th day of March 1926.

H. B. Pringle

C. J. Seaver

Leon Whitall

Commissioners.