

Decision No. 16334

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
J. P. TUCKER for certificate of pub-  
lic convenience and necessity to con-  
tinue the operation of auto truck  
service for the transportation of hot-  
house plants and cut flowers between  
Los Angeles and the following places:  
Sawtelle, Glendale, Eagle Rock, Pasa-  
dena, Hollywood, Beverly Hills, Pomona,  
Ontario, Riverside, Redlands, San Ber-  
nardino, San Diego, Santa Ana, San  
Pedro, Long Beach, Redondo, Montecito  
and Santa Barbara.

APPLICATION NO. 12084.

ORIGINAL

J. P. Tucker, Applicant, in Propria Persona.

Phil Jacobson, for Franchise Motor Carriers'  
Association, Protestant.

BY THE COMMISSION:

O P I N I O N

J. P. Tucker has made application to the Railroad Com-  
mission for a certificate of public convenience and necessity  
to operate an auto truck service for the transportation of hot-  
house plants and cut flowers between Los Angeles and Sawtelle,  
Glendale, Eagle Rock, Pasadena, Hollywood, Beverly Hills,  
Pomona, Ontario, Riverside, Redlands, San Bernardino, San Diego,  
Santa Ana, San Pedro, Long Beach, Redondo, Montecito and Santa  
Barbara.

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

In the present proceeding applicant seeks a certificate for the movement of hothouse plants and cut flowers from the nursery of Armacost & Royston Company at 115th Avenue, Los Angeles, to the various destinations cited in his application. The application was amended at the hearing by the addition of routes to be traversed.

According to the testimony of Mr. Walter L. Armacost, the service performed by applicant consists merely of a delivery service in emergencies immediately prior to the Christmas holidays and at Easter time only. The firm maintains its own equipment for delivery purposes, but at these two seasons of the year employs additional equipment, and in the past has utilized the service of applicant because of his ability to furnish covered vans which are specially fitted for the transportation of the delicate plants at a temperature which insures their preservation. The only service performed by applicant has been the furnishing of these covered vans, the vehicles being loaded and cared for in transit by employees of the nursery. As shown by the testimony of Mr. Armacost and the applicant herein, the movements thus conducted are not ordinarily between fixed termini or over a regular route, but are subject to the needs of the nursery for additional equipment in making deliveries at various points.

After the testimony had been received the protest of the Franchise Motor Carriers' Association was withdrawn.

From the testimony herein it appears that while applicant has conducted this service for more than ten years, only a few of the points enumerated in the application have been served by his trucks, and then only once or twice a year

and over different routes. There is nothing in the record to show an offer of service between fixed termini or over a regular route; on the contrary, the service performed is an "on call" service only for this particular customer, and therefore is clearly not within the purview of the Auto Stage and Truck Transportation Act.

Applicant now conducts, under proper certificate from this Commission, a trucking service between Los Angeles and Santa Paula, and the instant application resulted from his desire to comply with all the requirements of the law in all his business operations. While he is to be commended for this sense of duty, the Commission cannot grant a certificate where the operation proposed does not come within its jurisdiction, nor can it grant a certificate where there is no showing of public convenience and necessity, as in this case.

We therefore find as a fact, upon the record herein, that the service proposed by applicant is not one coming within the jurisdiction of this Commission, and that the application should be dismissed for lack of jurisdiction. An order will be so entered.

#### O R D E R

J. P. Tucker having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an auto truck service for the transportation of hothouse plants and cut flowers between Los Angeles and Sawtelle, Glendale, Eagle Rock, Pasadena, Hollywood, Beverly Hills, Pomona, Ontario, Riverside, Redlands, San Bernardino,

San Diego, Santa Ana, San Pedro, Long Beach, Redondo, Montecito and Santa Barbara, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that the application herein be and the same hereby is dismissed for lack of jurisdiction.

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

H. B. Brundage

C. Seaver

Leon Whitell

Commissioners.