

ORIGINAL

Decision No. 16559

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of E. G. MOSS for a certificate)
of public convenience and neces-)
sity to operate auto freight truck)
service between Pomona and various)
points in Southern California.)

APPLICATION NO. 11355.

Hugh Gordon, for Applicant.

H. J. Bischoff, for Coachella Valley Transportation Company, Coast Truck Line and W. & S. Truck Company, Protestants.

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

F. W. Granger, for Granger's Truck Service, Protestant.

F. M. Smith, for Hodge Transportation System, Rex Transfer and Keystone Express, Protestants.

Phil Jacobson, for Los Angeles & Santa Barbara Motor Express Company and Bakersfield & Los Angeles Fast Freight, Protestants.

BY THE COMMISSION:

O P I N I O N

E. G. Moss has made application to the Railroad Commission for a certificate of public convenience and necessity to operate automobile truck freight service between Pomona and various points in Southern California.

A public hearing herein was conducted by Examiner Williams at Pomona.

Applicant proposes a demand service for the transportation of all commodities except general merchandise, between Pomona and various termini, all within distances from Pomona varying from 35 to 152 miles, over seven different routes, indicated in the application. The routes have as their ultimate termini, Los Angeles, Bakersfield, San Jacinto, Santa Barbara, Victorville, Banning and San Diego. For this service ton rates are provided on citrus, deciduous and canned fruits, iron and vitrified pipe, in truck loads, between points on the routes indicated, not more than 75 miles from Pomona. Beyond this distance applicant provides hour rates in truckload quantities. His equipment for the service proposed consists of two trucks and three trailers of a gross capacity of about 20 tons.

According to the testimony of applicant, he purchased a trucking business in Pomona in 1914, which business had existed with horse-drawn vehicles for 26 years previously. In 1916, applicant testified, he discarded the use of horse-drawn vehicles and purchased trucks, and has since been conducting a business upon demand, going wherever he was paid to go, with any commodity offered him except general merchandise. His principal business has been the transportation of harvested fruit crops between the orchards and packing houses, and of packed and canned fruits to Los Angeles and Los Angeles harbor. On the return movement from Los Angeles he has hauled vitrified pipe, fertilizer, and empty fruit cans. Applicant has also hauled miscellaneous household goods between all

points, and from several points has transported junk to Los Angeles.

At the hearing applicant amended the rates proposed by offering special rates on household goods up to distances of 45 miles, based on a minimum of 100 pounds, and optional with the shipper in place of the hour rates offered. Approximately 90 per cent of the service performed by applicant in the past has been based upon time charges, and not upon rate per ton or mileage. It developed from the testimony of applicant that long-distance trips have been made by him very infrequently, and then only on special employment for the transportation of machinery or heavy property. To many of the extreme points mentioned in his application he could remember no haul.

The application was also amended by stipulation to exclude any operation in the San Bernardino and San Jacinto Mountains; also to amend the rate per hour shown in Exhibit "A" for a 5-ton truck and trailer, from \$4.00 to \$3.50.

Applicant was supported in his application by many witnesses from Pomona who had long used his service. One witness, Nathan Pedley, superintendent of the pipe lines of the Consolidated Water Company, testified that applicant's service had been used by this Company for the transportation of water pipe for 13 years; that he also frequently transported well tools and drilling machinery from Pomona to various points, and that his service had always been satisfactory. Charles A. Steadman, cashier of the First National Bank of

Pomona, testified that applicant had such an excellent reputation for the efficiency of his service that the bank in making loans considered the fact that applicant was to conduct the transportation as an advantage to the borrower and justification for a loan, and that this reputation had influenced the bank for many years. R. E. Page, manager of the Sunset Canning Company, operating canneries at Pomona, testified that this concern purchases orchard products at distances up to 70 miles from Pomona, that applicant transported such products to the cannery, and had transported less than carload shipments from the cannery to Los Angeles harbor since early in 1917. Mr. Page further testified that applicant met all calls, day or night, with promptness and efficiency, and performed a service in emergencies that could not be provided by any other carrier.

John E. McKean, manager of the Pomona Valley Machine Works, testified to applicant's particular skill and ability in hauling heavy machinery. The company manufactures water-well engines and pumps, and has a wide range of delivery, and frequently sends for pumps and machinery to be returned to the factory for repairs. Applicant had also transported machinery from Los Angeles to the Pomona factory. Carl E. Lorbeer, manager of the Pomona Valley Telephone Company, testified that this company had used applicant's service for many years in transporting machinery, switchboards and freight from the depot at Pomona to exchanges of the company at Chino, San Dimas and La Verne, but had not used his service to Los Angeles. Ira A. Lee, manager of the Pomona Irrigation System, testified that

applicant had hauled practically all the vitrified pipe used by the district for several years, mostly from Los Nietos but sometimes from Los Angeles. E. E. Wolcott, secretary of the Pomona Fruit Growers' Exchange, testified that applicant transports from 60 to 70 carloads of packed citrus products from Pomona to Los Angeles harbor each year, and that frequently he brings back commercial fertilizer and briquettes to the Association and distributes them direct to the growers. Ernest W. Browning, field superintendent of the Pomona Manufacturing Company, manufacturers of deep well pumps, testified that applicant's service was used by this concern about nine months each year, particularly because applicant possesses special machinery-loading equipment not used by other carriers.

The granting of the application was protested by the Coachella Valley Transportation Company, W. & S. Truck Line, Coast Truck Line, Motor Transit Company, F. W. Granger, Hodge Transportation System, Rex Transfer, Keystone Express, Los Angeles & Santa Barbara Motor Express Company, Bakersfield-Los Angeles Fast Freight and Southern Pacific Company. The Pacific Electric Railway Company stated that it would make no protest.

Testimony was offered by several of the protestants, but we believe only the protests of the Rex Transfer and Hodge Transportation System require serious consideration; this for the reason that the testimony discloses no operation by applicant between fixed termini or over regular routes served by these protestants, between Los Angeles and Los Angeles harbor and Pomona. The remainder of the operations as shown by the record have not been conducted with a frequency or continuity

sufficient to bring them within the purview of the Auto Stage and Truck Transportation Act. This leaves the movement between Pomona and Los Angeles and Los Angeles harbor as the only one to be considered.

The business conducted by applicant has been established in one form or another for nearly 40 years, and since 1916 trucks have been used continuously. During all of this period, according to the record, protestants have been familiar with the operations of applicant. It appears now that the development of his business has brought to him the enjoyment of frequent movements between certain points, and thus his operation transforms itself from one not requiring a certificate into one requiring a certificate. From the record it appears that applicant has sought to meet this changed situation in the only legal way possible.-- by filing with this Commission an application invoking its jurisdiction and requesting authority to continue the service under regulation. We believe the record shows abundant justification for a continuance of certain movements which applicant has conducted and which have been so transformed in character, particularly for the transportation of certain commodities which he either transports to Los Angeles or Los Angeles harbor for shipment, or into Pomona for distribution.

For the reasons stated above, we believe a certificate should be granted only for the operation of a service between Pomona and Los Angeles and Los Angeles harbor, and only for the transportation of the commodities specified in the order following.

O R D E R

E. G. Moss having made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto freight truck service between Pomona and various points 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 auto truck service as proposed by applicant herein, for the transportation, between Pomona and Los Angeles, of junk, packed and fresh fruits, machinery and pumps, metal and concrete pipe, household goods and pianos, and lumber, and for the return movement of cans for packing purposes, wrapping paper and fertilizer, and for the transportation, between Pomona and Los Angeles harbor, of packed fruits, and the return movement of fertilizer, and for no other service and no other commodities, over and along the following routes:

Between Pomona and Los Angeles via Valley Boulevard, or by diversion south through Compton to Harbor Boulevard, and thence to Los Angeles harbor, returning over identically the same routes; 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.

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 26th day of April 1926.

H. B. ...
C. ...

Leon ...

Commissioners.