

Decision No. 12086

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of H. H. DIMMITT and JAMES H. TAYLOR)
for certificate of public convenience)
and necessity to operate auto truck)
service as a contract carrier between)
points within a radius of 75 miles of)
Los Angeles Harbor District.)

ORIGINAL

APPLICATION NO. 12086.

H. H. Dimmitt, for Applicants.

Phil Jacobson, for Los Angeles & San
Pedro Transportation Company, Richards
Trucking & Warehouse Company, Keystone
Express, Triangle-Orange County Express,
City Transfer & Storage Company of Long
Beach, Rice Transportation Company and
Service Motor Express, Protestants.

E. F. Hunter, for Pacific Electric Rail-
way Company, Protestant.

BY THE COMMISSION:

O P I N I O N

H. H. Dimmitt and James H. Taylor, doing business under the firm name of Dimmitt & Taylor, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an auto truck service, as a contract carrier, between points within a radius of 75 miles of Los Angeles harbor district. By amendment previous to the hearing, this application was made definite as to termini and routes, the termini named being Los Angeles or Los Angeles harbor, and Owensmouth, Saugus, Pomona, Santa Ana, Redondo and Santa Monica.

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

Applicants propose contract truck service between the termini and over the routes named in the amended application.

Proof produced by them at the hearing shows that the service performed is the transportation of lumber, building materials and storage batteries under contractual arrangement with lumber and battery companies. Applicants produced no proof at all in support of a demand for a general freight service. Of the transportation conducted, 90 per cent is the movement of lumber between shipping points and the plants of three lumber companies; and witnesses from each of these companies testified that the service was performed under contractual arrangement with applicants. The transportation of storage batteries is on the same basis, and all the movements are one-way movements without back-haul. Applicants conduct a general trucking business in the city of Los Angeles and the movements of which proof was made represent only a portion of their entire business.

Under the recent decision of the United States Supreme Court in the Frost and Frost case, the Commission is without authority to grant a certificate except upon a showing that public convenience and necessity require the establishment of common carrier service.

For the above reasons the application herein will be dismissed for lack of jurisdiction. An order to that effect accordingly will be entered.

O R D E R

H. H. Dimmitt and James H. Taylor, doing business under the name of Dimmitt & Taylor, having made application, as amended, to the Railroad Commission for a certificate of public convenience and necessity to operate freight truck service as a contract carrier between Los Angeles and Los Angeles harbor, and various points in Southern California, 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 is hereby dismissed without prejudice.

Dated at San Francisco, California, this 3rd
day of September 1926.

H. H. Dimmitt

C. Taylor

James H. Taylor

Thomas S. Lovett
Commissioners.