

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HEMET TRANSFER & STORAGE to operate an automobile truck service between Los Angeles and Los Angeles Harbor points and Idylwild, San Jacinto and points within a radius of ten miles thereof and Hemet and points within a radius of ten miles thereof; also for the transportation of fresh fruit, citrus and deciduous, from points within a radius of ten miles of Hemet and San Jacinto to canneries and packing houses at Hemet, Ontario, Pomona, Cucamonga and Riverside.

ORIGINAL

Application No. 11,319.

Richard T. Eddy, for Applicant.  
Herbert W. Kidd, for Motor Transit Company, Protestant.  
Phil Jacobson, for Hodge Transportation System, Granger Truck Service and Bekins Van Lines, Protestants.  
H. J. Bischoff, for W. & S. Truck Company.  
M. Thompson, for American Railway Express Company, Protestant.  
E. E. McCarty and L. R. Everett for The Atchison, Topeka and Santa Fe Railway Company, Protestant.

BY THE COMMISSION:

O P I N I O N

By the application in this proceeding, as amended, F. E. Kelly, H. E. Kelly and L. N. Kelly, co-partners operating under the fictitious name of Hemet Transfer and Storage, seek authority to establish an automotive freight service over the following routes:

- (1) Between Los Angeles and Los Angeles harbor points and Hemet and points within a radius of ten miles thereof, on all commodities.

- (2) Between Los Angeles and Los Angeles harbor points and San Jacinto, on lumber, pipe, fertilizer, cement in truck load lots only.
- (3) Between Hemet and all points within a radius of ten miles thereof. Household goods in truck lots only.
- (4) Between Hemet and points within a radius of twenty miles thereof. All commodities.
- (5) Pipe from Los Nietos to Hemet and all points within a radius of twenty miles thereof.
- (6) Between Hemet and points within a radius of twenty miles thereof to packing houses and canneries at Hemet, Ontario, Pomona, Cucamonga and Riverside. Fresh fruit, citrus and deciduous; also canned goods.
- (7) Live-stock between Hemet and points within a radius of twenty miles thereof to Los Angeles, Riverside, Fontana, Pomona, Ontario and Colton.

Public hearings in this matter were held before Examiner Austin at Hemet, when evidence was offered, the matter was submitted, and it is now ready for decision.

The applicants, who are co-partners, each owning a one-third interest in the firm, have succeeded to the business formerly conducted by F. E. Kelly. Their equipment consists of eleven trucks, most of which are Packard models ranging from 1912 to 1922, and six trailers, estimated to be worth about \$36,000, approximately their original cost. About \$800. is owing on the purchase price of two of these trucks; otherwise, the equipment is unencumbered. F. E. Kelly owns real property worth about \$7,000, subject to a mortgage of approximately \$2500, which will be used in the business. Applicants began operations with very little capital, but have earned sufficient to purchase their present equipment.

Protestants contend that this equipment is not so valuable as claimed by applicants. Mr. Tibbits of the W. & S. Truck Company,

stated that trucks of such old models were incapable of performing the service he had rendered; and Mr. Hodge, of the Hodge Transportation System, estimated the market value of applicants' equipment to be not over \$6,000, although it might have a greater value to the operator in conducting his business. Since applicants have charged off no depreciation upon this equipment, it is apparent that its actual value is considerably less than the original cost.

Applicants propose to conduct an on-call service, no attempt being made to observe any regular schedules. Applicants themselves will devote all their time to the business, hiring such other drivers as may be necessary, and will maintain an office at Hemet. Shipments will be restricted to those weighing five tons or over for any one shipper, but mixed loads will be accepted from several consignors to one consignee, or one consignor to several consignees, provided the freight charges are paid by the one consignor or consignee, as the case may be. No such shipments will be accepted where the charges are divided between two or more persons.

In dealing with the evidence intended to establish a need for this service we shall classify it in accordance with the routes over which applicants propose to operate.

1. ALL COMMODITIES BETWEEN LOS ANGELES AND LOS ANGELES HARBOR POINTS AND HEMET AND POINTS WITHIN A RADIUS OF TEN MILES THERE-OF.

From Hemet to Los Angeles, applicants have transported furniture, live stock, feed, hay and grain, canned apricots and peaches, fresh apricots, oranges, pears and peaches, and eggs. No milk has been handled, most of this having been hauled by the W. & S. Truck line. From Hemet to Los Angeles harbor points, applicants have hauled oranges and canned apricots and peaches, this service being of an emergency nature due to the necessity for making close connections with steamers transporting these

products. In the reverse direction, from Los Angeles to Hemet, the principal commodities comprise groceries, lumber and building material, with occasional shipments of machinery, furniture and miscellaneous commodities. From the harbor to Hemet, fertilizer and lumber have been handled. No groceries have been hauled to San Jacinto, although it is within the ten-mile zone, shipments having been distributed to this point from Hemet. A detailed statement of the tonnage handled during the years 1922 to 1924, inclusive, was introduced, showing that between Hemet and Los Angeles and the harbor applicants hauled in 1922 an average of six tons daily; in 1923 an average of five tons daily; and in 1924 an average of seven tons daily. During the first nine months of 1925 the tonnage handled from Los Angeles and the harbor to Hemet was as follows:

Lumber - - - - -	216.84	tons
Groceries- - - - -	272.65	"
Plaster and wall board -	63.5	"
Total- - - - -	<u>552.99</u>	tons

In the opposite direction from Hemet to Los Angeles and the harbor the shipments consisted of:

Dried fruit - - - - -	180.1	tons
Canned goods- - - - -	571.32	"
Hay - - - - -	44.00	"
Total - - - - -	<u>795.42</u>	tons

In addition, 2194 cases of eggs were hauled, the weight of which was not shown.

During this time applicants made approximately 163 trips from Los Angeles and the harbor to Hemet, and 108 trips in the opposite direction, making a total of 271 trips, averaging approximately one trip per day, including Sundays and holidays. From Los Angeles to Hemet, shipments averaged 3.39 tons per trip; in the opposite direction, 7.36 tons per trip; and for all shipments, 4.97 tons per trip.

Several shippers were called to show a need for the proposed service. Mr. E. W. Rickard, of the California Co-operative Fruit Cannery, has employed applicants to transport a considerable volume of canned goods to the harbor, being influenced to some extent by the low rates quoted. The service has been satisfactory. Applicants' principal shipper, D. W. Gauld, a groceryman of Hemet, testified that Hemet Transfer has hauled groceries and supplies in considerable quantities from Los Angeles, and wheat and eggs in the opposite direction. He has found the service and rates satisfactory. Shipments are made about five times a month, and sometimes more frequently. During 1925 his shipments of groceries from Los Angeles amounted approximately to 272 tons, all having moved under the \$5.00 rate. Gauld is the only grocer in Hemet patronizing Hemet Transfer. Applicants have hauled lumber from Los Angeles and the harbor to E. H. Spaulding, a lumber dealer of Hemet, in many instances delivering it directly to the job. Because of the uncertain market, he has found it convenient to bring in plaster and wall board in small quantities rather than keep on hand a large supply, and for this purpose truck transportation is superior to the railroad service. However, the larger shipments of lumber will continue to move by rail. A rancher near Hemet testified that during 1925 he shipped about 380 tons of apricots over applicants' lines to Los Angeles, finding the service and rates satisfactory. He has not patronized other lines because of their higher rates. By stipulation entered into at the hearing, it was understood that certain shippers, if called, would endorse the application. This included the manager of the Mutual Orange Growers, who will use the service for transporting oranges to the harbor at a rate not exceeding \$6.00 per ton; an implement dealer at Hemet, who has used the service for hand-

ing farm machinery and implements from Los Angeles, finding it satisfactory; and the manager of Hemet Packing Company, and a grower of prunes and apricots, both of whom endorsed the service, have used it in the past for handling a substantial tonnage to the harbor.

2. LUMBER, PIPE, FERTILIZER AND CEMENT IN TRUCK LOAD LOTS ONLY, BETWEEN LOS ANGELES AND LOS ANGELES HARBOR POINTS AND SAN JACINTO.

No lumber, cement, pipe or fertilizer have been transported by Hemet Transfer from Los Angeles and the harbor to San Jacinto, these commodities having been distributed in San Jacinto by local merchants of Hemet, who originally obtained them from Los Angeles or harbor points. In other words, there has been no through movement to San Jacinto.

3. HOUSEHOLD GOODS IN TRUCK LOAD LOTS ONLY BETWEEN HEMET AND ALL POINTS WITHIN A RADIUS OF TEN MILES.

Although it was stated generally by Mr. Kelly that there had been a demand for the movement of household goods in this territory, nothing specific was shown in this respect.

4. ALL COMMODITIES BETWEEN HEMET AND ALL POINTS WITHIN A RADIUS OF TWENTY MILES THEREOF.

The testimony falling within this group indicated that Hemet Transfer has been engaged in the transportation of livestock, hay and grain, deciduous fruits, including apricots, peaches and pears, citrus fruits, such as oranges; also olives and walnuts. In general, it may be said that these commodities are produced within the area described, and that there is a need for their transportation to warehouses, packing houses and canneries at Hemet. There was also some evidence relative to the

local movement of crude oil in this district. However, no showing was made of any definite route or fixed termini over or between which this traffic moved or would be transported in the future, the evidence going no further than to show the production of these commodities, and the need for transportation.

5. PIPE FROM LOS NIETOS TO HEMET AND POINTS WITHIN A TWENTY MILE RADIUS.

The record shows that during 1925 there has been but one shipment from Los Nietos, consisting of 155 tons of vitrified pipe used in connection with an irrigation project, this being an emergency shipment due to an unprecedented drouth. It was admitted by one of the applicants that there was no assurance of any future movement of a similar character.

6. FRESH FRUIT AND CANNED GOODS BETWEEN HEMET AND POINTS WITHIN A RADIUS OF TWENTY MILES THEREOF ON THE ONE HAND, AND PACKING HOUSES AND CANNERIES AT HEMET, ONTARIO, POMONA, CUCAMONGA AND RIVERSIDE ON THE OTHER HAND.

The evidence establishes that during the packing and canning seasons there has been a movement of oranges, apricots and peaches from the territory surrounding Hemet to canneries at the points mentioned, resulting from the inability of the canneries and packing houses at Hemet to handle the entire product, and it was therefore necessary to ship the surplus to other points. These shipments are of an emergency nature, and there is need for prompt handling in order to prevent deterioration.

7. LIVE STOCK BETWEEN HEMET AND POINTS WITHIN A RADIUS OF TWENTY MILES THEREOF, AND LOS ANGELES, RIVERSIDE, FONTANA, POMONA, ONTARIO AND COLTON.

In connection with this proposed route the record shows that applicants have occasionally shipped hogs from a ranch two

miles west of Hemet to Colton, Pomona, Ventura and Los Angeles, particularly in connection with exhibits at county fairs. Also, they have handled milk cows between dairies at these points, and have hauled calves to market from another ranch near Hemet. According to a stipulation made at the hearing, it appears that a rancher near Hemet has employed Hemet Transfer to transport live stock, principally for exhibition purposes, to Los Angeles, Ontario, Pomona and Riverside, and has found the service satisfactory.

Considerable testimony was introduced concerning applicants' operations in the past, protestants contending that they have consistently violated the law in that they have been operating regularly between certain points without first obtaining a certificate. Applicants assert, however, that their operations have been irregular and casual.

Applicant Kelly testified that since he purchased the business of Hemet Transfer & Storage from Churchill in August, 1918, the business was conducted originally by himself, and later in connection with his two sons, until October, 1925, when he was arrested in Los Angeles for a violation of the Auto Stage and Truck Transportation Act. During this period applicants conducted a general trucking business, as previously described in this opinion, handling groceries, building materials, live stock, fruits, farm products and canned goods in season, and generally, all the commodities above mentioned. No regular schedules have been observed, the service having been conducted "on call." Mr. Kelly stated that in 1919 he submitted to Mr. Lemon, of the Commission's staff in Los Angeles, a proposed tariff, and after explaining the nature of his operations, was advised by Mr. Lemon that he was not subject to regulation by the Commission, the latter stating that applicants should discontinue operations unless hauling was conducted by the day, hour or trip, and that subject to such restrictions they could lawfully haul loads both to and from Los Angeles.

Correspondence between the Commission and applicants and their attorneys indicates that in the month of April, 1919, applicants were advised that irregular or occasional trips between specific points would not fall within the provisions of the Auto Stage and Truck Transportation Act; and in 1923 applicants were advised that their operations were unlawful if they were handling freight in mixed loads, or in both directions, or otherwise than by the hour, trip or day, for but one individual at a time, and then only on occasional hauls. The advice given applicants by the Commission in April, 1919, was in accordance with the provisions of the statutory law as existent at such time; subsequently, however, the law was amended by the provisions of Chapter 280, Statutes of 1919, such amendment becoming effective in August, 1919, and applicants have apparently relied entirely on advice given under the former statute as regards their subsequent operation.

In respect to the method of their operations, it appears that applicants have handled truck loads only, each load comprising the goods of but one shipper, except on a few occasions when the goods of several shippers were mingled in the same load. They have picked up several shipments and consolidated them into a single load where all such shipments were consigned to one person, who paid the freight charges. In many instances a truck carrying a load to Los Angeles or the harbor for one shipper has returned to Hemet with a load for another shipper, this practice being followed whenever loads could be obtained, since it would be impossible, so Mr. Kelly testified, for applicants to maintain their present rates if they were obliged to operate their trucks empty in one direction. About half of applicants' tonnage, aside from the local business, has comprised loads for three shippers, viz: groceries for Mr. Gauld, lumber for Mr. Spaulding, and canned goods for the Hemet Packing Company, the balance consisting

of "odd jobs." But subject to the limitations stated, applicants have accepted all shipments offered.

In discussing the service to Los Angeles and the harbor, we have pointed out that between January 1, and October 1, 1925, applicants hauled 552.99 tons to Hemet and 795.42 tons from Hemet, or a total of 1348.41 tons. During the same period the trips to and from Los Angeles and the harbor aggregated 271, or an average of 4.97 tons per load. Between these points applicants hauled, in 1922, 2127 tons; in 1923, 1826 tons, and in 1924, 2779 tons. The tonnage handled to other points, such as Ontario, Pomona, Cucamonga and Riverside, while considerably smaller, was substantial. It also appears that trips, particularly to Los Angeles and the harbor, were quite frequent, sometimes as often as five times a week.

There was considerable discussion as to applicants' rates, protestants contending that they were unduly low, and that because of unfair competition applicants had been able to develop a substantial tonnage. Protestants asserted that they were unable to meet these rates and operate at a profit. In 1922 and 1923 applicants' rate between Hemet and Los Angeles and the harbor was \$7.00 per ton; in 1924 the rate was reduced to \$5.40; and in 1925 it was still further reduced to \$5.00 per ton. The rate proposed in the application is \$5.60 per ton.

Applicants were unable to show their costs of operation.

nor their net income under these rates. In addition, the element of depreciation does not appear to have been included in the rate. Furthermore, applicants themselves have personally operated and repaired their trucks, allowing themselves salaries of \$35. per week, thereby effecting a saving of higher current wages to drivers and mechanics. Under these circumstances they appear to have conducted their operations at a profit, since they have been able to increase their equipment from time to time in order to handle the business which has developed. It was admitted that their rates were depressed by competition with other truck lines and with the rail lines. Three of applicants' witnesses, including Mr. Gauld, stated that the low rates were an important factor in inducing them to patronize the applicants.

With respect to the service of existing carriers, some of the witnesses called by applicants testified that a truck service was preferable to that afforded by the railroad, because of the convenience of direct pick-up and delivery; also, that the railroad was not suitable for handling emergency shipments of canned goods. In regard to the W. & S. Truck Company, some of these witnesses stated that it was satisfactory for small shipments, one witness stating that it had not solicited hauling of freight to the harbor until after applicants had stopped operations pursuant to Mr. Kelly's arrest, and another witness stated that Mr. Tibbits, the owner of this line, asserted he was not desirous of handling canned goods. As to the Hodge Transportation System, one of applicants' witnesses stated that it had not been used for emergency shipments, another said it was satisfactory for hauling fruit, while still another testified that occasionally shipments had been delayed due to the necessity of sending out trucks from Los Angeles to handle them.

The granting of this application was protested by the Motor Transit Company, Hodge Transportation System, Granger Truck Service, Bekins Van Lines, W. & S. Truck Company, American Railway Express Company, and The Atchison, Topeka and Santa Fe Railway Company.

The protest of Motor Transit Company was withdrawn upon applicants stipulating that they would not serve territory within the San Bernardino or San Jacinto mountains.

The Granger Truck Company hauls building materials between Hemet and Los Angeles under a certificate from this Commission. Its tariffs were offered, but no evidence as to the character of its service was submitted.

In respect to protestant, The Atchison, Topeka and Santa Fe Railway Company, it appears that a stipulation was made at the hearing relative to the service of this carrier, showing that shipments are promptly handled and can be delivered in Los Angeles on the afternoon of the day following their delivery to the freight house at Hemet, and that its rates on canned goods are lower than those offered by applicants.

In regard to the protestant, W. & S. Truck Company, it appears that it now operates two schedules a day between Hemet and Los Angeles, having an office at Hemet, and facilities in Los Angeles for the transfer of shipments to carriers serving other points, including Los Angeles harbor. It has four trucks and four trailers, and can purchase or lease additional equipment if required. This carrier handles milk principally, serving Los Angeles and Pasadena through its connections; it also handles other commodities, such as eggs, groceries, vegetables, and occasionally shipments of heavy machinery, such as pumps. Its schedule is, to a certain extent, circumscribed by the necessity for delivering milk to large dairies at a certain hour. Mr. Tibbits, on behalf of this protestant, testified that it could handle more

tonnage, having vacant space available, particularly on return loads, and he estimated that he could haul all of applicants' daily business on two trucks and two trailers. His rates, so he stated, cannot be further reduced, as they are lower than the present rail rates, and he further stated that it was useless to solicit business in Hemet because of the low rates charged by applicants. He testified that due to the competition between the applicants and Crawford & Churchill (operators in this territory) the rates have been forced to an extremely low level. Upon one occasion he warned applicant, F. E. Kelly, as to the illegal character of his operations, and threatened to take measures to stop him. Kelly informed him he would continue to operate, and would resist any proceedings brought against him.

Testifying on behalf of the protestant, Hodge Transportation System, Mr. F. M. Hodge stated that this protestant operated a trucking system embracing twelve different routes and covering a total distance of 900 miles, including a line between Hemet and Los Angeles and the harbor. The company uses about sixty pieces of equipment, including trucks and trailers, of which about half are owned by protestant and the remainder leased from Mr. Hodge. The company's equipment is heavily encumbered, while that owned by Mr. Hodge, so he testified, is subject to a claim for about \$12,000. This equipment, he stated, is sufficient to serve the Hemet district notwithstanding the large territory embraced within the system. Facilities are maintained at the harbor to expedite the handling of freight, and this protestant is willing to open an office at Hemet provided sufficient traffic develops to warrant it. Commodities of all descriptions have been hauled, including agricultural products, fruit, walnuts and building material. He testified that this protestant could readily handle all of the tonnage moved by applicants, which, he stated, did not exceed ten tons daily. The rates maintained

by protestant are higher than those of the applicants, it being impossible, in Mr. Hodge's opinion, to operate profitably at a rate of \$5.00 per ton between Los Angeles and the harbor and Hemet. Because of rail competition, this protestant has reduced its rates, but cannot cut them any lower. As it is, no dividends have been paid, and the company has passed through two reorganizations. He stated that the company's operating costs for handling a 3 $\frac{1}{2}$ -ton Packard truck and trailer, carrying an average revenue producing load of ten tons, based upon 500,000 miles of travel under all conditions, was 34.72 cents per truck-mile, or 3.47 cents per ton-mile. These figures are based upon comprehensive records, and include depreciation. For smaller loads, such as three tons, the operating costs per ton will be double the costs for a ten-ton load. Furthermore, operating costs have increased materially within the past two years. In Mr. Hodge's opinion, applicants can operate to the harbor at a lower cost than protestant, since applicants' overhead expenses are considerably less than those of protestant.

In rebuttal, Mr. E. E. Kelly, one of the applicants, testified that protestants could not handle all of applicants' traffic as readily as has been claimed, since applicants frequently have operated as many as five trucks and five trailers simultaneously.

It is apparent from the evidence that no sufficient showing was made to justify the operation of a truck service over all of the routes described in the amended application.

As to route No. 2, it was shown that none of the commodities mentioned in the application moved directly from Los Angeles or the harbor to San Jacinto. The same might be said as to the transportation of household goods between Hemet and points within a radius of ten miles, described in route No. 3.

As to route No. 4, wherein a certificate is sought authorizing the transportation of all commodities between Hemet

and all points within a radius of twenty miles, the record shows that although there is a considerable production of fruit, walnuts, hay and grain, and live stock within this area and a demand for its transportation, no showing was made as to the need for transportation over any definite route or routes, or between any specified points. Therefore, under the ruling in the Ben Moore case (27 C.R.C. 388), no certificate can be granted as to this portion of the application.

The evidence dealing with route No.5 shows that the movement of pipe from Los Nietos consisted of one shipment to meet an emergency, and there is no likelihood of any further need for transportation of this character.

With respect to route No.7 dealing with the handling of live stock between Hemet and points within a radius of twenty miles, and Los Angeles, Riverside, Fontana, Pomona, Ontario and Colton, it appears that occasional shipments have been made, consisting principally of live stock to be exhibited at county fairs. These movements have occurred at long intervals, being casual and sporadic in character, and there appears to be no public demand for this service.

Accordingly the application will be denied as to routes numbers 2, 3, 4, 5 and 7.

Before discussing the showing made by the applicants regarding the need for transportation over routes numbers 1 and 6, we shall consider other matters which should be first disposed of.

The protestants strenuously contended that the Hemet Transfer has built up, and will continue to develop its business under unreasonably low rates which will prevent other carriers from participating in this transportation. In other words, they assert that applicants' rates are so low as to result in unfair competition. It is true, of course, that transportation rates should be maintained upon a plane sufficiently high to yield the carrier a reasonable return and permit it to continue the service which it undertakes to give the public; and it is also true that low rates charged by a competing carrier are not of themselves to be condemned unless they tend to impair or destroy the service to which the public is entitled. This may occur where the carrier's rates are so low that it cannot hope to replace its equipment and in due time, when its trucks have worn out, it will be compelled to abandon the field; but in the meantime, it has enjoyed most of the business to the detriment of established carriers, whose rates are upon a reasonable

basis. It is apparent, however, that applicants' proposed rates are not so low as to result in the impairment or destruction of their service. In the past they have operated profitably under rates lower than the rate proposed, and have substantially increased their equipment. And while it is true that their operating costs have been lower than those of protestants, this is an advantage to which they are legitimately entitled, and so long as their rates are sufficiently high to insure the continuation of their service, the public is entitled to the benefit of the lower rates which applicants have been enabled to establish. If other operators are unable to meet this competition, provided it is fair, it is due to their economic disadvantages, which the Commission is under no duty to equalize. The representative of the W. & S. Truck line testified generally as to his inability to meet the rates of applicants, but made no showing as to protestants' operating costs. Mr. Hodge testified that the records of the Hodge Transportation System had shown the operating costs of a truck and trailer carrying a revenue paying load of ten tons to be 34.72 cents per truck mile. Between Demet and the harbor, a distance of approximately 120 miles, this cost would be \$41.66 or \$4.17 per ton, assuming that the equipment carried a load in each direction, as has been the case with applicants. This cost, he stated, would be higher for a lighter load, but he conceded that applicants' overhead costs were much lower than those of the Hodge Transportation System. This showing, therefore, does not indicate that the \$5.60 rate proposed by applicants will be unduly low.

All other factors being equal, and assuming that there is a public need for the service not supplied by protestants, we believe that the public should not be deprived of the benefit of lower rates because the protestants are

unable to meet them.

Dealing now with route No. 1, namely, the transportation of all commodities between Hemet and Los Angeles and the harbor, it appears, as we have stated, that there is a demand for the movement of freight in considerable volume between these points. This service cannot be supplied by the railroads because of the superior facilities of a trucking service with respect to the direct pick-up and delivery of shipments. The protestant, W. & S. Truck Company, has not supplied this demand, it apparently having specialized largely in the transportation of milk from Hemet, thereby utilizing most of its available space; and although it may be able to handle shipments upon return trips, we believe the public is entitled to the benefit of a service which will accommodate shipments moving in both directions. The Hodge Transportation System has about 30 trucks and 30 trailers to serve a system approximately 900 miles in extent, one-half of this equipment being owned by Mr. Hodge personally, and that portion owned by the company being heavily encumbered. To accommodate the route between Hemet and Los Angeles and the harbor, protestants propose to use 11 trucks and 6 trailers. We believe that they are in a better position to perform this service than the Hodge Transportation System. But the record does not show the need for service to the territory surrounding Hemet, within a radius of ten miles.

With respect to route No. 6, the evidence shows that during the packing and canning seasons there is a necessity for the transportation of surplus stocks from the canneries and packing houses at Hemet to those situated at Ontario, Pomona, Cucamonga and Riverside. This is particularly true because of the urgent need for promptly canning and disposing of these commodities, which are highly perishable. The testimony does not indicate any route or routes over which these commodities may be transported to Hemet from the surrounding territory within a radius of twenty

miles, consequently, the application cannot be granted to this extent. However, in all other respects we believe the need has been shown for applicants' operation over this route.

In view of what has been said, the application will be granted in part as to both routes No's 1 and 6, radial operations being excluded in view of our decision In re Ben Moore, supra. In all other respects, the application will be denied.

Upon full consideration of the evidence, we are of the opinion, and find as a fact, that public convenience and necessity require the operation by F. E. KELLY, H. E. KELLY and L. N. KELLY, as co-partners operating under the fictitious name and style of HEMET TRANSFER AND STORAGE, of an automotive truck service for the transportation of property as a common carrier over the following routes:

1. For the transportation of all commodities between Hemet on the one hand, and Los Angeles and Los Angeles harbor points on the other hand, but not between intermediate points.
2. For the transportation of fresh fruits (citrus and deciduous) and canned goods from packing houses and canneries at Hemet, on the one hand, to packing houses and canneries at Ontario, Pomona, Cucamonga and Riverside, respectively, on the other hand.

And we further find that public convenience and necessity do not require the operation by said applicants of an automotive freight service for the transportation of any property over any or all of the routes designated in the preceding opinion and in the amended application as routes numbers 2, 3, 4, 5 and 7.

An order will be entered accordingly.

O R D E R

A public hearing having been held in the above-entitled application, the matter having been duly submitted, the Commission being now fully advised, and basing its order upon the findings of fact which appear in the opinion preceding this order,--

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HEREBY DECLARES THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE the operation by F. E. KELLY, H. E. KELLY and L. N. KELLY, co-partners operating under the fictitious name and style of HEMET TRANSFER AND STORAGE, of an automotive truck service for the transportation of property as a common carrier over the following routes:

1. For the transportation of all commodities between Hemet on the one hand, and Los Angeles and Los Angeles harbor points on the other hand, but not between intermediate points.
2. For the transportation of fresh fruits (citrus and deciduous) and canned goods from packing houses and canneries at Hemet, on the one hand, to packing houses and canneries at Ontario, Pomona, Cucamonga and Riverside, respectively, on the other hand.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and the same is hereby granted to said F. E. KELLY, H. E. KELLY and L. N. KELLY, as co-partners operating under the fictitious name and style of HEMET TRANSFER AND STORAGE, authorizing the operation of the service hereinabove

described, subject to the conditions hereinafter set forth.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY FURTHER DECLARES THAT PUBLIC CONVENIENCE AND NECESSITY  
DO NOT REQUIRE the operation by said applicants last herein  
described of an automotive truck service for the transporta-  
tion of property over any or all of the routes designated in  
the preceding opinion and in the amended application as routes  
numbers 2, 3, 4, 5 and 7.

IT IS HEREBY FURTHER ORDERED that the application herein,  
as amended, be, and the same is hereby denied with respect to the  
authority sought for permission to operate over said routes desig-  
nated therein as routes numbers 2, 3, 4, 5 and 7.

The authority herein granted is subject to the following  
conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from the date hereof; shall file, in duplicate, a tariff of rates and time schedules in a form satisfactory to the Commission, within a period of not to exceed twenty (20) days from the date hereof, and shall commence the operation of the service herein authorized within a period of not to exceed thirty (30) days from the date hereof.
2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
3. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, except as hereinabove stated,  
the effective date of this order shall be twenty (20) days  
from the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day  
of October, 1926.

H. R. Bounding

C. Cleary

Edward E. Eddy

Leon Whitell

Thos. S. Rutter

Commissioners.