

Decision No. 17631

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of RUDOLPH A. WELLPOTT for certificate of public convenience and necessity to operate auto truck service between Los Angeles, Vernon and various points in Southern California as shown in Exhibit "A" attached.

APPLICATION NO. 11938

Rudolph A. Wellpott, Applicant, in Propria Persona.

Phil Jacobson, for Keystone Express, Protester.

D. W. Layne, for Pacific Electric Railway Company, Protester.

L. C. Zimmerman, for Southern Pacific Company, Protester.

BY THE COMMISSION:

OPINION

Rudolph A. Wellpott has made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto truck service for the transportation of lumber and building materials from the plants of the Whiting-Mead Company in the city of Vernon and the city of Los Angeles, to various termini, and intermediate points.

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

In his Exhibit "A" attached to the application, applicant proposes routes to be traversed between the plants of the

lumber company in Vernon and Los Angeles, and Girard, Owensmouth, San Fernando, Tujunga, Upland, Ontario, Fullerton, Santa Ana, Newport Beach, Los Angeles harbor district, Redondo and Santa Monica. To reach these points he has provided twelve routes, and he asks authority to establish service to all intermediate points, with the privilege of delivery within 15 miles on either side of the highways traversed. The operation is to be conducted on demand only, and exclusively for the Whiting-Mead Company, at a rate of \$1.50 per hour. Applicant possesses one truck of 3 tons' capacity.

Applicant testified that he had been performing this service under verbal contract with the Whiting-Mead Company for more than three years; that he had hauled lumber and building materials over all the routes specified, and at the rates specified, and that his business had been profitable; that he owns his equipment, which is specially constructed for the use to which it is devoted, and that he desires to submit his operation to the regulation of this Commission under the Auto Stage and Truck Transportation Act.

W. R. Greenwood, traffic clerk for the Whiting-Mead Company, testified that this company maintains a large number of trucks of its own, but employs applicant from 40 to 60 hours each week for delivering consignments of 3 tons or less in excess of the capacity of its own vehicles. He further testified that applicant occupies the relation of a semi-employee, in that, when called, he registers his arrival on the time clock and is paid by the hour until he registers out. In this way he is compensated for idle time. This witness further testified that the company sells lumber and building materials f. o. b. jobs and

estimates the cost of delivery in the selling price. He testified that no back-haul service is required of applicant except the return of rejected or surplus material.

It appears from the record that applicant is now, and for several years has been, conducting a freight delivery service, under contract with Whiting-Lead Company, for compensation over the public highways, but not between fixed termini or over regular routes. We believe the service is one for which a certificate is not legally required, and therefore the application should be dismissed for lack of jurisdiction. An order will be entered accordingly.

O R D E R

Rudolph A. Wellpott having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an auto truck service between Los Angeles and Vernon and various points in Southern California, as shown in Exhibit "A" attached to the application, 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 FINDS AS A FACT that applicant does not propose to operate between fixed termini or over a regular route, and further, that all of his proposed operations are under con-

tract with one consignee; therefore,

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 18th
day of November, 1926.

W. B. Rindge

W. B. Rindge

W. B. Rindge

Thos. J. Rindge
Commissioners.