

Decision No. 17856

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ACME TRANSFER COMPANY for certificate)
of public convenience and necessity) Application
to operate freight service between) No. 10628
Sacramento and San Francisco and Los)
Angeles.)

ORIGINAL

A. M. Thatcher, for Applicant,
Harry A. Encell and Jas. A. Miller for
Debins Van Lines, Incorporated,
California Highway Express and
Consolidated Furniture Moving Corp., Protestants,
A. I. Burger for Liberty Transfer and Storage
Company, Protestants,
Henry H. Cogarty, for S.P.Co., Protestant.

BY THE COMMISSION -

O P I N I O N

In this proceeding A.M. Thatcher, doing business under the name and style of Acme Transfer Company, seeks a certificate of public convenience and necessity to continue the operation of an automobile truck service for the transportation of household goods and machinery between Sacramento and San Francisco, and Sacramento and Los Angeles, and intermediate points. Applicant proposes to operate a weekly service between Sacramento and San Francisco, via Vallejo in hot weather and Stockton in cool weather, and proposes a monthly service between Sacramento and Los Angeles, via Fresno and Bakersfield. Applicant alleges that he was engaged in this service before the effective date of Chapter 213, Statutes of 1917.

A public hearing was held before Examiner Austin at San Francisco, the matter was duly submitted, and is now ready for decision.

Applicant testified that he proposed to operate a weekly truck service for handling household goods between San Francisco and Sacramento, leaving Sacramento at 6:30 P.M. and arriving at San Francisco the following day at 5:30 A.M. Between Sacramento

and Los Angeles he proposes to operate a monthly service, traveling via Stockton, Bakersfield and the Ridge Route. Less than full loads will be forwarded by rail, since they can be trucked only at a loss, but he is willing to handle full loads to Los Angeles without any return haul.

Applicant testified further that he contemplated using in the proposed service four one-ton Chevrolet trucks and two 1½ ton trailers with water proof covers, having a total capacity of 5000 to 6000 pounds, the trucks being capable of handling a fifty percent overload. Applicant testified that he acquired this equipment late in 1917, having previously used horse-drawn vehicles.

The applicant began hauling household goods in 1906, when he operated a local trucking service in Sacramento and vicinity. On or about May 1, 1917, he was trucking household goods locally in Sacramento and to surrounding towns such as Perkins and Roseville, using horse-drawn vehicles, and it was not until late in that year that he began the use of automobile trucks. The applicant has averaged several trips monthly between Sacramento and San Francisco, during the time that he has been operating between these points, and for the past three years, he has averaged one trip monthly between Sacramento and Los Angeles. He has shipped excess loads and in some instances full loads by rail and boat to San Francisco, and by rail to Los Angeles, such shipments to the latter point moving every three or four days. Where shipments have been made in this manner the applicant has arranged with agents at destination to handle them.

In explanation of his past operations conducted without obtaining from this Commission a certificate of public convenience and necessity, applicant testified that he believed himself to be a private carrier and as such, entitled to operate without a certificate.

The applicant, who presented his own case, called no shippers or receivers of household goods to testify as to the public need for this service, being content to rest his case on his own testimony.

and his records. He offered two letters in support of his application.

The granting of this application was protested by Bekins Van & Storage Company, California Highway Express, Consolidated Furniture Moving Corporation, Liberty Transfer and Storage Company and Southern Pacific Company.

The evidence offered on behalf of protestant Liberty Transfer & Storage Company shows that it transports household goods between Sacramento and San Francisco, maintaining a weekly service under a certificate from this Commission, and has equipment sufficient to handle three times the volume of shipments offered. By stipulation, the time schedules and tariffs filed with the Commission by protestants, Bekins Van and Storage Company, California Highway Express, Consolidated Furniture Moving Corporation and Southern Pacific Company between the points involved in this application and which they serve, were made part of this record.

Upon full consideration of all the evidence, we are of the opinion and hereby find as a fact that A.M. Thatcher, applicant herein, while he has failed to show that he was operating an automobile service for the transportation of household goods in good faith prior to May 1, 1917, between Sacramento and San Francisco bay points and intermediate points, has shown that public convenience and necessity require the continued operation by him of the service he is now giving between such points, which service he established, without authority from this Commission, under the mistaken belief that he was not required under the Auto Stage and Truck Transportation Act to secure a certificate of public convenience and necessity for such a service. We also are of the opinion and find as a further fact that the service performed by applicant Thatcher prior to May 1, 1917, out of Sacramento to cities and towns contiguous thereto, was essentially a local service which, because of its not being a service between fixed points or over a regular route, or routes,

was not a service within the jurisdiction of the Railroad Commission, viewed in the light of the Commission's decision in the so-called Ben Moore matter, (C.R.C. Decision No. 15818, 27 C.R.C., Page 388), in which ^{it} is held that this Commission has certificating authority over only those operators whose operations are between fixed points or over a regular route, or routes. We further find as a fact that applicant Thatcher has not shown that public convenience and necessity require the operation by him of an auto trucking service, as proposed by him between Sacramento and Los Angeles, via Fresno and Bakersfield, and intermediate points.

O R D E R

A public hearing having been held in the above entitled application, said matter having been duly submitted, the Commission being fully advised and basing its order on the findings of fact which appear in the opinion which precedes this order:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by A.M. Thatcher, doing business under the name and style of Acme Transfer Company, of an automobile service for the transportation of household goods, furniture, pianos and other personal effects, including trunks and baggage, between San Francisco, Oakland and Sacramento and intermediate points via Vallejo, including territory laterally on either side of the highway for a distance of 10 miles, subject to the following conditions:

1- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

2- Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with the rates filed with the Railroad Commission in the name of The Liberty Transfer and Storage Co. herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.

3- 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.

4- No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him 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 the date hereof.

Dated at San Francisco, California, this 10th day of January ~~December~~, 1926.

W. H. Boardman

O. A. Seawell

Thos. D. Lewis
COMMISSIONERS.