

18035

Decision No. 18035

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
 W. S. WORCESTER and W. H. HENRY,  
 partners in business under the name  
 of Stockton Transfer Company, for a  
 certificate of public convenience  
 and necessity to operate a motor truck  
 service for the transportation of  
 household goods (as hereinafter de-  
 scribed) between -

APPLICATION NO. 11522.

- Route No. 1 Stockton and San Francisco  
via Tracy, Hayward and  
Oakland.
- Route No. 2 Stockton to Oakland via  
Tracy and Hayward.
- Route No. 3 Stockton to Sacramento.
- Route No. 4 Stockton to Fresno via  
Merced.
- Route No. 5 Stockton to Redding via  
Woodland.
- Route No. 6 Stockton to Sonora.
- Route No. 7 Stockton to Angels.
- Route No. 8 Stockton to Calistoga via  
Martinez and Santa Rosa.

Forslund, Case & Forslund, by E. W. Forslund,  
for Applicants.

H. A. Encell and James A. Miller, for Cal-  
ifornia Highway Express, Consolidated Furn-  
iture Movers and Liberty Transfer & Stor-  
age Company, Protestants.

E. S. Best, for Bekins Van Line, Inc., Pro-  
testant.

W. J. Quinn, for White Lines, Protestant.

BY THE COMMISSION:

O P I N I O N

W. S. Worcester and W. H. Henry, co-partners doing bus-  
iness under the fictitious name of Stockton Transfer Company,

have made application to the Railroad Commission for a certificate of public convenience and necessity to operate a motor truck service for the transportation of household goods from Stockton over eight different routes, with San Francisco, Oakland, Sacramento, Fresno, Woodland, Sonora, Angels and Calistoga as termini. Applicants also seek authority to make delivery and pick-up at any point within 30 miles on either side of the main highways traversed.

Public hearings herein were conducted by Examiner Austin at Stockton, the matter was duly submitted and now is ready for decision.

Applicants have been engaged in the transfer and drayage business in Stockton for many years. It was the testimony of Mr. Worcester, one of the partners, that he acquired the Jones Transfer Company in 1907, and that in 1919 he and Mr. Henry purchased the Stockton Transfer Company, consolidating the two businesses and establishing warehouse facilities. Applicants now have transportation equipment represented by automotive vehicles aggregating \$35,000. in value, and a warehouse in Stockton valued at \$50,000. The business which they have built up in local draying and warehousing has increased rapidly and their gross receipts for the first eight months of 1925 amounted to \$43,090. The partnership maintains no office at any point except Stockton.

In connection with their business, applicants have specialized in the transportation of household goods, pianos and office furniture, and for such purpose have four trucks of various capacities, equipped with van bodies. The character of the business is best described by a reply made by Mr. Worcester

(Transcript, page 46):

"We get calls from out-of-town customers to haul their goods to other towns, and also get them from people in the city of Stockton to take their goods from here to another point, or it might be that their goods are in another town at the present time and they are to be brought here, and in lots of cases they go into the warehouse until such time as they have a residence prepared."

It was also the testimony of Mr. Worcester that during a part of 1925 (January to August, inclusive), applicants conducted 51 out-of-town services, upon demand, to various points in California, and that of these services, only 20 were to some of the points on the routes named in the application. The witness further testified that service of this character had been performed by the applicants ever since they had been in business, with the addition that piano deliveries on demand had been made for a Stockton music store. There was nothing in his testimony to show that there was frequency or continuity of movements over any of the routes proposed herein, the nearest approach to regularity being ten trips made to Oakland.

The testimony of Mr. Worcester was corroborated by Louis S. Genochio, representing the Standard Oil Company, who testified that applicants' service is used in moving furniture belonging to oilfield workers from one field to another; also, by W. P. Jordan, representing Sherman Clay & Company, dealers in pianos and other musical instruments.

A careful examination of the evidence produced by the applicants herein is satisfying that the business they are engaged in is not that of a transportation company operating over a regular route or between fixed termini, or on schedule, but is wholly comparable to the operations of Ben Moore as described in Application No. 11303, which application was dismissed by this

Commission in Decision No. 15818, for lack of jurisdiction.

In this proceeding applicants urged prescriptive right for the conduct of the service, and also sought a certificate de novo. In view of the fact that the testimony shows that the character of the business is the same now as on May 1, 1917, when the Auto Transportation Act became effective, and that no certificate is now required for the conduct of such business, it appears that no prescriptive right has vested in applicant.

Under the facts, as presented, therefore, we find that the business of applicants herein is such that this Commission is not legally authorized to grant a certificate of public convenience and necessity for its operation. An order accordingly will be entered, dismissing the application for lack of jurisdiction.

#### O R D E R.

W. S. Worcester and W. H. Henry, co-partners doing business under the fictitious name of Stockton Transfer Company, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate motor truck service for the transportation of household goods and pianos from the city of Stockton to various designated termini, public hearings 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 hereby is dismissed for lack of jurisdiction.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 2nd day of March, 1927.

Ernesto

H. B. Brundage

O. J. Sweeney

Leon Russell

Commissioners.