

Decision No. 19067

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASBURY TRUCK COMPANY, a corporation, for certificate of public convenience and necessity to operate freight service between all points in the State of California. ) Application No. 10148

Warren E. Libby and Louis Kleindienst,  
for Applicant.  
H. J. Bischoff, for Bakersfield & Los Angeles  
Fast Freight, California Highway Express,  
Coast Truck Line, Boulevard Express,  
City Transfer & Storage,  
Glendale & Los Angeles Express,  
Monrovia & Los Angeles Express,  
Huntington Park and Los Angeles Transfer,  
Imperial Valley and Los Angeles Express,  
Keystone Express,  
Los Angeles & Oxnard Express,  
Los Angeles & San Pedro Transportation Co.,  
Ojai, Ventura & Los Angeles Express,  
Pacific Motor Express, Rex Transfer,  
Rice Transportation Company,  
Richards Trucking & Warehouse Company,  
San Bernardino Transportation Company,  
San Fernando Haulage Company,  
San Joaquin Valley Transportation Company,  
Motor Service Express, S & M Transfer,  
Tolson Transportation Company,  
Triangle-Orange County Express,  
W & S Truck Company,  
Pioneer Truck & Transfer Company and  
Borderland Express, Protestants.

Kidd, Shell & Delamer, by W. O. Shell, for  
Motor Transit Company.

Frank Karr and R. E. Wedekind, for Southern  
Pacific Company, Pacific Electric Ry. Co.,  
Central California Traction Company,  
Visalia Electric Railroad Company and  
Petaluma and Santa Rosa Railroad Company.

BY THE COMMISSION:

O P I N I O N

Applicant above named was granted a certificate of public convenience and necessity to operate automotive trucks for the transportation of property for compensation over the public highways in this state by this Commission, by Decision and Order No. 18,150, dated March 31, 1927. On April 18, 1927, a petition for rehearing was filed by certain parties urging that the Commission had erred in granting such certificate because the operations as proposed by applicant did not fall within its jurisdiction. By Decision and Order No. 18,496, dated June 9, 1927, this petition for rehearing was denied. On the same date a First Supplemental Order was made by the Commission (Decision and Order No. 18,487), which modified the previous Decision No. 18,150 with respect to the routes named in the certificate. Subsequently, these parties, who had petitioned for a rehearing, filed a petition for writ of review in the California Supreme Court, requesting that the Commission's order be annulled as to the provisions therein relating to, and the granting of a certificate to this applicant. Thereafter, this Commission reopened this matter for further hearing to determine whether or not error had been committed in granting the certificate. This further hearing was held before Examiner Vaughan at Los Angeles, the matter was duly submitted, and is now ready for decision.

On August 16, 1927, this Commission made an order rescinding and setting aside its previous decisions numbered 18,150 and 18,487 pending the final determination of this matter.

The certificate as modified by Decision No. 18,487 authorized applicant to operate on the following described routes:

1. Between Salinas and Los Angeles and Los Angeles Harbor points, via the Coast Highway.
2. Between Fresno and Los Angeles and Los Angeles Harbor points via Bakersfield and the Ridge and/or Tehachapi routes.
3. Between Los Angeles and Los Angeles Harbor points and San Bernardino via the Foothill and Valley Boulevards.
4. Between Owenyo and Los Angeles and Los Angeles Harbor points via Mojave.
5. Between Los Angeles and Los Angeles Harbor points and San Diego via the Coast or Inland routes.
6. Between Los Angeles, Los Angeles Harbor points and Imperial Valley points via Coast or Inland routes to San Diego and via State Highway to Imperial Valley.
7. Between Los Angeles, Los Angeles Harbor points and Santa Monica Bay points.
8. Between San Bernardino and Needles via National Old Trails Road.
9. Between San Bernardino and Imperial Valley points and California-Arizona State Line via Ocean to Ocean Highway.
10. Between Bakersfield and McKittrick, Fellows, Taft and Maricopa.
11. Between Fresno and Coalinga and Alcalde.

At the further hearing applicant introduced certain exhibits and testimony for the purpose of showing that it has been operating usually and ordinarily over these routes, and shows the following:

As to Route No. 1, between Salinas and Los Angeles and Los Angeles Harbor points, via the Coast Highway, the number of operations from May to December, inclusive, 1925, were 2832; during the year 1926, 4517, and from January to July, inclusive, 1927, 5269.

As to Route No. 2, between Fresno and Los Angeles and Los Angeles Harbor points via Bakersfield and the Ridge and/or Tehachapi routes, there were 521 operations from May to December, inclusive, 1925; 609 during the year 1926 and 304 from January to July, inclusive, 1927.

As to Route No. 3, between Los Angeles and Los Angeles Harbor points and San Bernardino via the Foothill and Valley Boulevards, there were 119 operations from May to December, inclusive, 1925, 129 during the year 1926, and 521 from January to July, inclusive, 1927.

As to Route No. 4, between Owenyo and Los Angeles and Los Angeles Harbor points via Mojave, there were no operations from May to December, inclusive, 1925; there were 4 during the year 1926 and 4 from January to July, inclusive, 1927.

As to Route No. 5, between Los Angeles and Los Angeles Harbor points and San Diego via the Coast or Inland Routes, there were 626 operations from May to December, inclusive, 1925, 1899 during the year 1926, and 1758 from January to July, inclusive, 1927.

As to Route No. 6, between Los Angeles, Los Angeles Harbor points and Imperial Valley points via Coast or Inland Routes to San Diego and via State Highway to Imperial Valley,

there were three operations from May to July, inclusive, 1925, 55 during the year 1926, and one from January to July, inclusive, 1927.

As to Route No. 7, between Los Angeles, Los Angeles Harbor points and Santa Monica Bay points, there were 793 operations from May to December, inclusive, 1925, 866 during the year 1926, and 869 from May to July, inclusive, 1927.

As to Route No. 8, between San Bernardino and Needles via National Old Trails Road, there was 1 operation from May to December, inclusive, 1925, 50 during the year 1926, and 4 from January to July, inclusive, 1927.

As to Route No. 9, between San Bernardino and Imperial Valley points and California-Arizona State Line via Ocean-to-Ocean Highway, there was 1 operation from May to December, inclusive, 1925, 31 during the year 1926, and 121 from January to July, inclusive, 1927.

As to Route No. 10, between Bakersfield and McKittrick, Fellows, Taft and Maricopa, there were 334 operations from May to December, inclusive, 1925, 281 during the year 1926, and 110 from January to July, inclusive, 1927.

As to Route No. 11, between Fresno and Coalinga and Alcalde, there were no operations from May to December, inclusive, 1925; 25 during the year 1926, and 6 from January to July, inclusive, 1927.

From the foregoing, it is our opinion that applicant has been operating usually and ordinarily upon, over and along these routes, and we do not feel, therefore, that we committed an error in our previous order in granting a certificate for operations covering the same.

We have reviewed the evidence heretofore presented in the prior hearings and conclude therefrom that the record shows public convenience and necessity to require the service, over the routes as hereinafter specifically mentioned in the accompanying order, and for the class of commodities set forth in said order. This showing is confirmed by the evidence as to regularity and volume of operation over regular routes and between fixed termini as presented at the further hearing on this proceeding.

Applicant sought to place its operations under the regulatory authority of this Commission at a time when it was doubtful if a certificate of public convenience and necessity was required to permit the operation to be conducted in accordance with the statutory law. The operation has been conducted for some years, is increasing in volume and by reason of the great number of trips now being made over regular routes and between fixed termini, comes clearly within the provisions of the statute as requiring a certificate authorizing its continuance. Protestants made no showing as to their ability satisfactorily to handle the character of transportation herein proposed by applicant.

It is our conclusion that a certificate of public convenience and necessity should be granted for the herein described routes, and an order will be entered accordingly.

#### ORDER

The matter of the application as above named and numbered having been duly reopened for further hearing, public hearings having been duly held thereon, the matter having been duly submitted, the Commission being now fully advised, and basing its order on the conclusions as appearing 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 ASBURY TRUCK COMPANY, a corporation, of an  
automotive truck service, on demand, for the transportation of  
oil well supplies, heavy machinery, pipe, steel and tanks, on  
the following described routes:

1. Between Salinas and Los Angeles and Los Angeles Harbor points, via the Coast Highway.
2. Between Fresno and Los Angeles and Los Angeles Harbor points via Bakersfield and the Ridge and/or Tehachapi routes.
3. Between Los Angeles and Los Angeles Harbor points and San Bernardino via the Foothill and Valley Boulevards.
4. Between Owenyo and Los Angeles and Los Angeles Harbor points via Mojave.
5. Between Los Angeles and Los Angeles Harbor points and San Diego via the Coast or Inland routes.
6. Between Los Angeles, Los Angeles Harbor points and Imperial Valley points via Coast or Inland routes to San Diego and via State Highway to Imperial Valley.
7. Between Los Angeles, Los Angeles Harbor points and Santa Monica Bay points.
8. Between San Bernardino and Needles via National Old Trails Road.
9. Between San Bernardino and Imperial Valley points and California-Arizona State Line via Ocean-to-Ocean Highway.
10. Between Bakersfield and McKittrick, Fellows, Taft and Maricopa.
11. Between Fresno and Coalinga and Alcalde,

and serving all intermediate points and termini on all the herein-  
above described routes, together with the right to transport the  
above-named commodities in truck-load quantities with the minimum  
load of 4,000 pounds between any terminus or intermediate points  
on any of the above-mentioned routes to any terminus or inter-  
mediate point on any other route; and

