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Decision No. 20165.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of
C. W. LAMPSON, for certificate of
public convenience and necessity to
operate a freight line, carrying
freight between Sacramento, California,
and Cottonwood, Anderson and Redding,
California.

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}
} Application No. 14552.
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L. C. Smith, for Applicant
W. S. Johnson, for Southern Pacific
Company, Protestant.
A. D. Ackerman, for American Railway
Express Company.

BY THE COMMISSION:

O P I N I O N

The applicant seeks a certificate from this Commission to operate a motor truck freight service from Sacramento to Cottonwood, Anderson and Redding, with no intermediate service. Public hearings were held thereon in Redding on May 18th and 31st, the Southern Pacific Company and American Railway Express Company protesting the granting of the application.

The applicant has, since about January 1, 1928, been conducting a general trucking service between these points without having obtained a certificate from this Commission. His operations in the beginning were under a single private contract with a wholesale produce firm in Sacramento, but were later expanded until he, at the time of the hearings, professed to haul indiscriminately for a large number of

shippers. The protestants insist that because of such illegal operations the applicant is not a proper party to be certified.

The witnesses for the applicant were almost wholly grocery and produce merchants in Redding, Anderson and Cottonwood. Most of them purchase produce from Levy & Zentner, a wholesale firm in Sacramento. The applicant first began his operations by hauling, soliciting orders and collecting for that firm, the hauling charge being paid in advance by the seller. That plan of operation still continues, and the applicant did not state that he proposed to alter the plan. Thus, as to the produce which he hauls, which seems to be about one-third of his total business, the applicant is merely the agent for Levy & Zentner and is not a public carrier.

Witnesses claimed that they needed applicant's service in respect to both produce and other goods. There was some evidence that an automobile truck service would be of value to retailers of produce in the above three towns, as such goods can be transported from Sacramento during the night and will arrive at the door of the dealer at an early morning hour, whereas the railroad service does not afford such early delivery. In respect to goods other than fresh produce, however, there was no satisfactory showing that the existing rail service is inadequate. The railway maintains a daily service to these points as compared to a tri-weekly schedule proposed by applicant, and the railway's special merchandise car to Redding affords the merchants in that town particularly a valuable transportation service from Sacramento, which might be impaired if a considerable portion of its business

were diverted to another carrier. The testimony of some merchants to the effect that they required the applicant's service in order to meet the competition of chain stores which have their own means of transportation was broken down by the testimony of such chain-store merchants themselves, who stated that they are not now operating trucks but use either applicant's present service or the Southern Pacific, two using the rail service exclusively.

We have arrived at the conclusion that public convenience and necessity do not require the transportation service proposed. The mere proposal by an applicant to carry freight at a lower rate than that of the existing carriers is not of itself a sufficient showing of the inadequacy of the existing transportation service. Moreover, the undertaking of applicant to haul for the public generally without having first obtained a certificate so to do from this Commission is not entirely excusable. The purely private service rendered to Levy & Zentner does not come under the jurisdiction of this Commission.

ORDER

A public hearing having been held on the above entitled application, the matter submitted and now being ready for decision, and basing its order on the findings of fact and conclusions contained in the foregoing opinion,

IT IS HEREBY ORDERED that the said application of C. W. Lampson be and the same is hereby denied.

Dated at San Francisco, California, this 29th day of August, 1928.

Chas. J. ...

James ...

John B. ...

Commissioners.