

Decision No. 20278.**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PAUL KENT TRUCK COMPANY, INCORPORATED,
 for a certificate of public convenience and necessity to operate warehouse at Los Angeles, California.)
 Application No. 14642.)

Benjamin W. Shipman, for applicant.

Newlin & Ashburn, by Arthur T. George and I. A. Bailey, for Los Angeles Warehousemen's Association and California Warehousemen's Association.

BY THE COMMISSION:

O P I N I O N

The Paul Kent Truck Company, a corporation, has petitioned the Railroad Commission under Section 50 $\frac{1}{2}$ of the Public Utilities Act for an order declaring that public convenience and necessity require the operation by it at Los Angeles of a warehouse as defined in Section 2 $\frac{1}{2}$ of the Act.

A public hearing was held before Examiner Geary at Los Angeles August 7, 1928, and the matter having been submitted is now ready for an opinion and order.

The testimony clearly shows that this applicant and its predecessors have operated warehouses in the City of Los Angeles for a number of years prior to 1917, and that their activities include the operation of a local truck and drayage service within the City of Los Angeles and a common carrier automobile truck service between Los Angeles and the harbor

districts at San Pedro and Wilmington. Applicant's witness further testified that it has never stored commodities nor solicited the storage of commodities except such as might be handled incidental to either a common carrier truck movement or in connection with a local drayage service. A large part of applicant's business is devoted to the receiving and distributing of pool carloads of heavy commodities, the most important being machinery, moving from eastern points to Los Angeles, to be distributed either upon direct instructions from the factory or from the local agents of the factory, and it frequently happens that a pooled car will contain articles not for immediate delivery, and these are practically the only commodities stored in the warehouse conducted by the Paul Kent Truck Company. At the present time applicant is using part of a warehouse on a month-to-month basis, leased from the A.P. & S.F. Ry. Co. In 1921 it used facilities owned by the Los Angeles and Salt Lake Railroad, and prior to that date other warehouses within the city.

The granting of the certificate of public convenience and necessity was protested by a number of warehousemen operating within the City of Los Angeles, who showed by the testimony of their witnesses that at the present time there is a surplus of warehousing space within the city and that many of the established warehouses having tariffs on file with this Commission are operating with a large amount of empty warehouse space, variously estimated at from 33 per cent. in November, 1926, to 41 per cent. in November, 1927.

Section 50½ of the Public Utilities Act, effective August 3, 1927, reads in part as follows:

"No warehouseman shall hereafter begin to operate any business of a warehouseman, as defined in Section 2½ of this act, in any incorporated city, or city and county of this state having a population of one hundred fifty thousand or more, without first having obtained from the railroad commission a certificate declaring that public convenience and necessity require or will require the transaction of business by such warehouseman * * * * *"

"No such certificate shall be required by any warehouseman as to storage or warehouse space actually operated in good faith at the time this act becomes effective, under tariffs and schedules of such warehouseman lawfully on file with the railroad commission."

There were introduced as exhibits by applicant communications dated February and March, 1927, between the office of the Railroad Commission and applicant with reference to the filing of tariffs, but through some misunderstanding this correspondence was not completed and tariffs were never filed. Had applicant filed the tariffs in 1927 under the provisions of Paragraph (aa) Section 2 of the Public Utilities Act, there would have been no necessity for this proceeding.

It is apparent from this record that the applicant has been operating a limited warehousing service for some fifteen years, accepting for storage, as heretofore stated, only commodities incidental to a subsequent movement either by dray or common carrier automobile truck, therefore the continuance of the service will not inaugurate any new or competing warehouse in the City of Los Angeles. The Commission is of the opinion that applicant has justified a continuance of its warehouse business, and we conclude, upon consideration of all the facts of record, that a certificate of public convenience and necessity should be issued as set forth in the application.

O R D E R

A public hearing having been held in the above entitled proceeding, the application having been submitted and now being ready for a decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of warehouse service as a public utility by Paul Kent

Track Company, Incorporated, at Los Angeles, California.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be granted to applicant, subject to the condition that the applicant shall file within a period of not to exceed twenty (20) days from the date hereof a warehouse tariff published in accordance with the rules of this Commission, setting forth the rates, rules and regulations governing the charges to be assessed as shown in Exhibit "A" and as amended, attached to and made a part of the application.

Dated at San Francisco, California, this 28th day of September, 1928.

Leon White

Beatty

Thos S. Leitch

M. J. Quinn
Commissioners.