

Decision No. 21831

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

In the Matter of the Application of P. E. TIBBETTS, doing business under the name and style of ANZA TRAIL TRUCK LINE, for certificate of public convenience and necessity to operate a motor truck service as a common carrier between San Jacinto and San Bernardino and intermediate points.

Application No. 15688.

- E. J. Bischoff, for Applicant.
- E. J. Haley for Railway Express Agency, Inc., Protestant.
- Leo C. Sievert and G. E. Harrison for The A.T. & S.F. Railway Company, Protestant.
- T. R. Rex for the Rex Transfer, Protestant.
- Perry Green for San Bernardino Transportation Company, Interested Party.

BY THE COMMISSION:

O P I N I O N

P. E. Tibbetts, doing business under the name of Anza Trail Truck Line, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of a motor truck service as a common carrier of freight between San Jacinto and San Bernardino, serving Hemet, Romoland, Perris and intermediate points, and within a radius of five miles on either side of the state highway traversed; provided, however, that no service shall be rendered locally between Riverside and San Bernardino and points intermediate between Riverside and San Bernardino.

A public hearing on this application was conducted by Examiner Satterwhite at San Bernardino, the matter was submitted and is now ready for decision.

Applicant proposes to charge the same rates for the proposed service which are now in effect between San Jacinto and Riverside, as shown by C.R.C. No. 1, Anza Truck Line, effective January 23, 1928. Applicant proposes to maintain a daily service and to travel along and over the route set forth in Exhibit "A" attached to said application.

Applicant now operates trucks on regular schedule out of Los Angeles via Riverside, serving all points intermediate between San Jacinto and Riverside (not including Riverside), and also out of San Jacinto to Los Angeles, serving all points intermediate San Jacinto to Riverside (including Riverside) and the proposed service will be an extension of applicant's present service.

The Atchison, Topeka & Santa Fe Railway Company, Railway Express Agency, Inc. and Rex Transfer Company protested the granting of said application, the latter company withdrawing its protest by reason of amendments to the application made at the hearing.

The record shows that San Bernardino has become an important industrial and distributing center for numerous towns and communities in the counties of Riverside and San Bernardino and surrounding territory.

Several witnesses, consisting of representatives of large whole-sale shippers and retail firms of San Bernardino, testified to the need of the proposed extended service. The territory sought to be served is an agricultural area extending from San Jacinto to Riverside. The testimony indicates that there exists a demand for

a more expeditious transportation service to the farms and communities in this district. No authorized motor transportation service covers this territory out of San Bernardino. The only service at present consists of a mixed train operated daily, except Sundays, by The Atchison, Topeka & Santa Fe Railway Company, which leaves San Bernardino at 11:30 a.m. and arrives at San Jacinto at 2:55 p.m., returning at 3:15 p.m., arriving at San Bernardino at 6:40 p.m.

The record shows that this rail service, particularly as to L.C.L. shipments, is not satisfactory either to the shippers and jobbers at San Bernardino or the merchants and farmers along and adjacent to the proposed route.

All the shippers and merchants appearing at the hearing testified to the need of a store door delivery, as well as a direct delivery to the farms on either side of the highway traversed. It appears that daily shipments of merchandise of all kinds, ranging in weight from one pound to several tons, are made into the territory by the various merchants of San Bernardino, a portion of which are emergency shipments consisting of machine parts to the ranches and automobile parts to garages. The merchants of San Bernardino frequently send shipments over to Riverside to be there picked up by motor stage service for expeditious delivery along the route sought to be served for the reason that the mixed train schedule is too slow and indirect, causing delayed deliveries.

The record further shows that the California Milk Producers Association is now shipping both night and day large quantities of milk from San Jacinto, Hemet and Perris to San Bernardino under private contract with applicant, which perishable commodity requires rapid transportation. Applicant indicated at the hearing that he desires this milk traffic to be transported under the regulatory

authority of this Commission.

After a careful consideration of the evidence in this proceeding, we are of the opinion that public convenience and necessity require the operation of the above described service and that the application should be granted.

P. E. Tibbetts is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

#### O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted and the Commission having been fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by P. E. Tibbetts, doing business under the name and style of Anza Trail Truck Line, of a motor truck service as a common carrier of freight between San Jacinto and San Bernardino, serving Hemet, Romoland, Perris and intermediate points, and within a radius of five miles on either side of the state highway traversed; provided, however, that no service shall be rendered locally between Riverside and San Bernardino and points intermediate between Riverside and San Bernardino.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the hereinabove described service be

and the same is hereby granted to said applicant as an extension of his present authorized truck service between Los Angeles and San Jacinto, 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 those attached to the application 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.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of November, 1929.

Thomas D. Lott  
C. C. Severy  
Ernest J. Smith  
Leon Whitell  
W. J. Cunn  
Commissioners.