

Decision No. 21852

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application )  
of MESSRS. O. C. BUTLER and H. A. )  
GRUNDY, doing business under the ) Application No. 15535.  
fictitious firm name of the PACIFIC )  
TRANSPORTATION COMPANY for authority )  
to engage in the warehouse business. )

ORIGINAL

Phil Jacobson - For Applicant.

L. A. Bailey, and Gibson, Dunn & Crutcher, by  
Paul R. Watkins - For California Warehousemen's  
Association and Los Angeles Warehousemen's  
Association, Protestants.

BY THE COMMISSION:

O P I N I O N

This is an application filed by O. C. Butler and H. A. Grundy, doing business under the fictitious name of Pacific Transportation Company, for a certificate of public convenience and necessity authorizing them to conduct a public utility warehouse business in the city of Los Angeles.

Public hearings were held by Examiner Gannon in Los Angeles, the matter was submitted, and is ready for decision.

Applicants have been engaged in the drayage business for several years and in 1924 were granted a certificate by this Commission to operate a trucking business between Los Angeles City and Los Angeles harbor. In the conduct of this drayage and trucking business they have rendered a certain amount of storage service to their customers but did not report any warehouse revenues to the Commission nor had they warehouse tariffs on file. On March 2, 1929 the Commission notified applicants

that, in view of the fact they were accepting commodities in storage without tariff on file, they would, under Sec. 50½ of the Public Utilities Act, be required to make formal application for a certificate of public convenience and necessity. Such application was filed on April 8, 1929.

O. C. Butler, testifying for the applicants, stated that they had never solicited any warehousing business but had accepted for storage everything that was offered to them by their own drayage customers, and that therefore such storage as came to them resulted from transportation service rendered by them to their customers. He further testified that applicants own a concrete and brick building 80 X 175 feet with approximately 14,000 square feet available for storage purposes located in what is known as the Goodyear Tract, in a rapidly developing manufacturing and industrial section. He had made a survey of the territory in and surrounding the tract and found that the nearest public warehouse was located five miles distant from their building. The witness further testified that they were now actually storing for ten different concerns and that several applications for space had been received,

The granting of the application was protested by California Warehousemen's Association and by Los Angeles Warehousemen's Association on the ground that there is presently no need for additional warehousing facilities in Los Angeles. Counsel for these protestants stated that such opposition emanated from a fear that the granting of the application would tend to increase the vacant available warehouse space and thus affect the revenues of existing

operators. He also added that the floor space of applicant "is so meager that it would not interfere materially with the trade of other warehouses." Protestants offered four witnesses who testified that there was no need for additional warehouse facilities and submitted tabulations showing present facilities. One of these exhibits indicates that 19.4 percent of the net available space on June 1, 1929 was empty, but it also shows that in the past two years such percentage has dropped from 43 percent.

Reviewing the evidence in this proceeding leads us to the conclusion that the application should be granted. Applicants undoubtedly accepted certain goods for storage as an accomodation to their customers and inaugurated this practice at a time when the warehousing business was not under the jurisdiction of this Commission. As evidence of their good faith, they promptly endeavored to comply with the law upon receipt of notice from the Commission, and it would scarcely be compatible with the public interest should they now be compelled to abandon the storage of goods at present in their warehouse. Moreover, the testimony indicates a real need for storage facilities in the particular district where applicant's warehouse is located, which, by the way, is more or less isolated from the so-called warehouse district of Los Angeles.

#### ORDER

Public hearings having been held in the above entitled proceeding, the matter having been submitted and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require  
the operation by O. C. Butler and H. A. Grundy, doing business

under the fictitious name of Pacific Transportation Company, of a public warehouse at 825 East 62nd Street in the city of Los Angeles for the storage of certain commodities enumerated in their application, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such business be and the same is hereby granted to O. C. Butler and H. A. Grundy, operating under the fictitious name of Pacific Transportation Company, subject to the following conditions:

1. Applicant shall file in duplicate within a period not to exceed twenty (20) days from the date hereof tariff of rates, such tariff of rates to be those submitted with the application herein, as amended, or other rates satisfactory to the Railroad Commission and shall commence operation of said service within a period not to exceed thirty (30) days from the date hereof.
2. 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.

Dated at San Francisco, California, this 2nd day of December, 1929.

Thos D Lunt  
W. C. Seamy  
Emm Deard  
Leon Whitely  
A. J. Lane  
Commissioners.