

Decision No. 22884

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

**ORIGINAL**

In the Matter of the Application  
of G. W. Cobb, doing business under  
the name of Triangle Transfer Company,  
for certificate of public convenience  
and necessity to extend FREIGHT and  
EXPRESS service now in operation.

Application No. 16599.

Strother P. Walton, for Applicant,  
Edward Stern, for Railway Express Agency, Inc.,  
Protestant,  
W. S. Johnson, for Southern Pacific  
Company, Protestant.

BY THE COMMISSION:

O P I N I O N

G. W. Cobb, doing business under the fictitious name of Triangle Transfer Company, requests a certificate of public convenience and necessity to operate an automobile stage line as a common carrier for the transportation of freight and express between Sunnyside and Clovis, as an extension of his present operating right between Fresno and Centerville and intermediate points.

A public hearing was held before Examiner Gannon at Fresno.

The applicant now, and for some ten years past, has operated a freight service between Fresno and Centerville via Sunnyside, Clovis and Sanger, serving intermediate points. About a year ago, at the solicitation of several merchants of that place, he began hauling regularly to and from Clovis and still continues to do so. Clovis is located six (6) miles due north of Sunnyside, which is one of the points served by

Cobb under his certificate. He testified that the Clovis service was inaugurated by him under the belief that the term "and intermediate points," as used in the Commission's order granting him a certificate, was broad enough to include Clovis.

The proposal of the applicant includes primarily a store-door pick-up and delivery service to merchants and business men of Clovis.

His equipment consists of three 2-ton trucks, two of which are operated regularly over the present route, and one of these will be diverted to Clovis on the regular daily run between Fresno and Sanger. According to the schedule submitted with the application, this truck would leave Fresno at 12 o'clock noon, arriving at Clovis at 1:00 p.m. and departing at 1:20 p.m. The rates will be in line with those to other points equidistant from Fresno. There will be no disturbance or impairment of service to points presently served.

Eighteen Clovis merchants and business men joined in signing a petition to the Railroad Commission praying for the granting of the application. The record also contains the testimony of one Clovis witness who has been in the general merchandise business there for seventeen years. He testified that the proposed service, which he is now using, is very necessary and satisfactory and should be continued. Orders for goods telephoned in to Fresno are delivered the same day. Rail service of the Southern Pacific Company is slow, inconvenient and generally unsatisfactory, and the witness would regret being forced to resume such service. He had formerly hauled his own freight but finds the service of the applicant cheaper and more satisfactory.

The testimony of two other merchants of Clovis was admitted by stipulation of counsel with the understanding that they would testify in all substantial respects similarly to the above witness.

We believe the record sufficiently indicates a general demand for the proposed service and we will so find. The applicant was undoubtedly the victim of his own enthusiasm when he permitted himself to assume that Clovis, six miles off his authorized route, was "an intermediate point" but that is his sworn statement and we do not propose to question it. So far as the Commission is aware, applicant's operations have at all times been proper and beyond complaint. He testified that this application was filed as a result of a weakening faith in his right to serve Clovis under the "intermediate point" theory. In view of the showing made as to the necessity for the proposed service, the application will be granted.

G. W. Cobb 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 application, the matter having been submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity require

the operation by G. W. Cobb, doing business under the fictitious firm name of Triangle Transfer Company, of an automobile stage line as a common carrier of freight and express between Sunny-side and Clovis and intermediate points as an extension of, and consolidation with, his present operating right between Fresno and Centerville and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service be and the same is hereby granted to said G. W. Cobb 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 3rd  
day of September, 1930.

W. J. Leary

Leon Whittell

W. J. Leary  
Commissioners.