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Decision No. 23228.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

BEKINS VAN LINES, INC., a corporation,
and LYON VAN LINES, INC., formerly
known as CALIFORNIA HIGHWAY EXPRESS,
a corporation,

Plaintiffs,

vs.

A.M. GRIGGS, doing business under the
firm name and style of GRIGGS VAN &
STORAGE COMPANY,

Defendant.

ORIGINAL

Case No. 2850.

LOUFTIT, Commissioner:

OPINION and ORDER
on
REHEARING

On April 10, 1930, complainants herein filed a complaint charging that the defendant is operating an automobile trucking service as a transportation company in violation of Chapter 213. A public hearing was held and on September 10, 1930, the Commission made its order dismissing the complaint on the ground that under the Ben Moore decision the Commission was without jurisdiction. Thereupon complainants petitioned for a rehearing and on November 6, 1930, the Commission made its order granting said rehearing.

A rehearing was held at Santa Barbara. No further evidence was introduced, counsel stipulating that the matter should be considered on the record previously made. After oral argument the matter was submitted on briefs.

Bekins Van Lines, Inc. and Lyon Van Lines, Inc. are corporations performing a common carrier service for the transportation of furniture and household goods between Los Angeles and Santa Barbara and intermediate points. They complain of defendant

Griggs for operating a common carrier service for like commodities between the termini mentioned as an operation in violation of Chapter 213, Statutes of 1917, and amendments thereto.

It appears from the record that the defendant Griggs since 1922 has been engaged in the general trucking business in Santa Barbara as a common carrier and also holding himself out to transport from or to Santa Barbara as a common carrier to or from points in California within a radius of practically three hundred (300) miles from that point and to all "points within 25 miles on either side of main highway". On November 18, 1925 the defendant Griggs filed with the Commission his Application (No. 12061) for a certificate of public convenience and necessity authorizing him to perform this service.

On December 31, 1925 the Commission handed down its Decision No. 15818 in the matter of the application of Ben Moore which decision is reported in 27 C.R.C. page 388; holding in this decision that the Commission had no jurisdiction to issue a certificate authorizing an operation of the character applied for by Moore. A similar operation was proposed by Griggs in his Application No. 12061. Thereafter the Commission notified Griggs of the decision in the Ben Moore matter and suggested the dismissal of his application or its amendment. Griggs asked for a dismissal and the Commission on October 25, 1926 ordered that said "application be and the same hereby is dismissed without prejudice".

It would be unfair to this defendant to compel him to cease and desist from his present operation which is identical with that he was conducting in 1925 without affording him an opportunity to renew his application and a hearing upon its merits.

I therefore recommend the following form of order:

O R D E R

IT IS HEREBY ORDERED that defendant Griggs within sixty (60) days from date hereof cease and desist operation between Los Angeles and Santa Barbara unless within thirty (30) days from date hereof he make application to the Commission for a certificate of public convenience and necessity to conduct a common carrier service for the transportation of property between said points.

IT IS HEREBY FURTHER ORDERED that in event such application be filed that further proceedings herein be suspended until determination of such application on its merits and that this proceeding remain open for such further proceedings herein and the entry of such further order or orders as may be meet in the premises.

The above opinion and order are hereby approved and ordered adopted as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of

December 1932

[Signature]

[Signature]

COMMISSIONERS.