

Decision No. 23256

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ROBT. V. HARDIE,

Complainant,

vs.

PACIFIC MOTOR TRANSPORT COMPANY,
a corporation,

Defendant.

ORIGINAL

Case No. 2867

Owen C. Emery, for Complainant,

C. W. Cornell, for Defendant.

BY THE COMMISSION -

OPINION

Robert V. Hardie, doing business as the Lone Pine-Keeler Auto Stage Line, complains of defendant Pacific Motor Transport Company, a corporation, and alleges that said defendant, beginning on the 1st of May, 1930, and continuously thereafter, is operating an auto service for the transportation of freight between Lone Pine Station and Lone Pine in Owens Valley without having obtained from the Railroad Commission a certificate of public convenience and necessity in accordance with the provisions of Chapter 213, Statutes of 1917, and effective amendments thereto; and that such operation is and will continue to be in direct competition with the duly authorized operation of the complainant, thereby resulting, and will continue to result in irreparable injury and damage to said complainant.

Complainant prays for an order of the Commission directing defendant, to immediately cease the transportation of freight and other property between Lone Pine Station and Lone Pine.

Defendant duly filed its answer in which it generally denied the material allegations of the complaint and alleged that it had been operating auto service for the transportation of freight between Lone Pine Station and Lone Pine since May 1, 1930, said operation having been conducted under its understanding of the authority of this Commission granting a transfer of operating rights acquired from California Transit Co. under the provisions of Decision No.22183 on Application No.16323, as decided March 6, 1930.

A public hearing on this complaint was conducted by Examiner Handford at Los Angeles, the matter was duly submitted upon the filing of brief by the attorney for complainant, and is now ready for decision.

The record herein shows that at all times since the original granting of a certificate to Owens Valley Transportation, Storage & Packing Company by the provisions of Decision No.6666 on Application No.4763, as decided September 15, 1919, the operative right for the transportation of passengers and freight covered a route between Lone Pine Station and Bishop. Tariffs and time schedules were so filed in accordance with the original granting of a certificate of public convenience and necessity by the Commission. The operative rights granted to Owens Valley Transportation, Storage and Packing Company were transferred to California Transit Co. by the authority of the Commission as contained in Decision No.20024 on Application No.12402, as decided July 11, 1928, and later affirmed by Decision No.21859 on Supplemental Application No.15781, in which decision an in lieu decision was granted to California Transit Co. covering the operative rights for the transportation of passengers and freight between Lone Pine and Bishop and with feeder lines off the direct route serving the communities at Round Valley, Sunland and Otis Ranch. By inadvertence, the Commission omitted the portion of the through route between Lone Pine Station and Lone Pine, although such portion of the

route had existed since the original granting of the right to Owens Valley Transportation, Storage & Packing Company.

After a complete review of all the evidence, exhibits and records of the Commission as referred to during the hearing on this application, we hereby conclude and find as a fact that the operative rights of Owens Valley Transportation, Packing & Storage Company as transferred to California Transit Co. by the provisions of Decision No.20024 on Application No.12402, as decided July 11, 1928, included the portion of the route between Lone Pine Station and Lone Pine for the carriage of passengers, freight and express as a portion of the rights transferred between Lone Pine and Bishop; that same was continuously operated by the Owens Valley Transportation, Packing & Storage Company since the commencement of operation as authorized by the provisions of Decision No.6666 on Application No.4783, as decided September 15, 1919. The complaint herein will be dismissed.

ORDER

A public hearing having been held on the issues presented by the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order upon the conclusion and finding of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that this complaint be and the same is hereby dismissed.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 7th day of

January 1931.

C. Searcy
Leon White
M. J. Lee
W. B. Lewis

COMMISSIONERS.