

Decision No. 23535

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation upon)
 the Commission's own motion into the op-)
 erations and practices of E.E.McPHERSON,) Case No.2995
 operating an automobile trucking service)
 between points in the State of California.)

E. E. Mc Pherson, in propria persona, Respondent.

BY THE COMMISSION -

OPINION

ORIGINAL

This is an investigation on the Commission's own motion into the operations and practices of E. E. Mc Pherson, operating an automotive trucking service between points in the State of California.

A public hearing on this investigation was conducted by Examiner Handford at San Francisco, the matter was duly submitted and is now ready for decision.

Respondent, E. E. Mc Pherson, is the holder of a certificate of public convenience and necessity issued by this Commission in Decision No.14242 on Application No.10565, as decided November 6, 1924, authorizing the operation of an auto service for the transportation of freight, namely, green fruit and packing house supplies, between packing sheds in Scotts Valley and Big Valley and in the vicinity of Upper Lake, Lakeport and Kelseyville on the one hand, and Hopland and Ukiah on the other hand, service to be given only during the pear packing season, or approximately from July 15th to September 15th of each year. The records of the Commission show that the certificate granted as above was duly accepted by respondent and that tariffs and schedules of operation were duly filed in compliance with the provisions of said certificate.

The record shows that respondent failed to file his annual reports since the year in which the certificate was granted, with the exception of that for the calendar year of 1928, which report was due on February 15, 1929, but was not filed until August 1, 1929. The record further shows that repeated efforts were made by correspondence to secure the filing of annual reports but that no filing was made excepting in the instance noted above.

Representatives of the Commission's Accounting and Auto Stage and Truck Departments testified regarding personal calls made upon the respondent and his attorney to secure the filing of annual reports which were overdue, and as to their failure to secure compliance with the requirements of the Commission regarding the filing of such reports.

It appears from the testimony of respondent that at no time since the granting of the certificate has he operated under same, his entire operation in the territory covered by the certificate being that of a contract carrier, contracts having been secured as a result of competitive bids and at rates other than those filed in accordance with the provisions of the certificate granted.

Respondent's only excuse for not filing annual reports, as required by the Commission, and for not operating his service in accordance with the requirements of his certificate is that as service had only been rendered under contract, he did not consider that his operation or the results of same were matters under the jurisdiction of the Commission. In this view he was sustained, according to the correspondence of record herein, by his attorney, to whom he referred practically all communications forwarded by the Commission. The record, however, shows that respondent and also his attorney were repeatedly advised as to the procedure necessary if respondent desired to relinquish the certificate heretofore granted and to conduct his business as a contract carrier on contracts secured after competitive bidding.

We have carefully considered the entire record in this proceeding. It appears therefrom and we hereby conclude and find as facts that respondent E. E. Mc Pherson has never operated in accordance with the provisions of the certificate heretofore granted, that such rates as have been charged have been lower than those lawfully filed in accordance with the provisions of the application; that no annual reports have been filed in accordance with the regulations and requirements of the Commission, excepting only the annual report for the calendar year 1928 and such report filed virtually under protest as to the jurisdiction of the Commission; and that respondent has been at frequent intervals advised by his attorney and has received frequent information from this Commission as to its requirements.

Upon the record as appearing in this proceeding, the certificate now held by respondent under decision of this Commission should be revoked and all tariffs and time schedules filed thereunder should be canceled and annulled.

ORDER

A public hearing having been held upon the above entitled proceeding, the matter having been duly submitted, the Commission being now fully advised and basing its order upon the findings of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity as heretofore granted to E. E. Mc Pherson by the provisions of Decision No. 14242 on Application No. 10565, as decided November 6, 1924, said certificate covering the operation of an auto service for the transportation of freight, namely, green fruit and packing house supplies, between packing sheds in Scotts Valley and Big Valley and in the vicinity of Upper Lake, Lakeport and Kelseyville on the one hand, and Hopland and Ukiah on the other hand, said service to be given only during the pear packing season, or approximately from July 15 to September 15 of

each year, be and the same hereby is revoked and annulled, and

IT IS HEREBY FURTHER ORDERED that all tariffs and time schedules now on file with this Commission, same having heretofore been filed in accordance with the provisions of the above mentioned certificate, be and the same hereby are canceled and annulled.

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

Dated at San Francisco, California, this 23rd day of March, 1931.

C. S. ...
Leon ...
M. J. ...
M. B. ...
Fred G. ...
COMMISSIONERS.