

Decision No. 23611**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
 A. M. GRIGGS,  
 doing business under the firm name  
 and style of Griggs Van & Storage  
 Company, for certificate of public  
 convenience and necessity to operate  
 freight truck service between Santa  
 Barbara and Los Angeles and inter-  
 mediate points.

Application No. 17161.

G. G. Glick and J. G. Swan, for Applicant.

Phil Jacobson, for Bekins Van Lines and  
Lyon Van Lines, Protestants.Edward Stern, for Railway Express Agency, Inc.  
Interested Party.R. S. Fisher and W. S. Johnson, for Southern  
Pacific Company, Interested Party.

BY THE COMMISSION:

OPINION

The instant application of A. M. Griggs for certificate of public convenience and necessity to operate as a common carrier of furniture and household goods between Santa Barbara and Los Angeles and intermediate points is the result of an order made by this Commission in Decision No. 23228 on Case No. 2350, dated December 30, 1930.

This order reads:

"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 makes 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 was further ordered that Case No. 2850 "remain open for such further proceeding herein and the entry of such

further order or orders as may be meet in the premises."

Instant application was filed January 29, 1931, which is within the period required by the order. It was presented at public hearings conducted by Examiner Williams at Santa Barbara and Los Angeles, was duly submitted, and now is ready for decision.

During interim between hearings the application was amended, requesting authority to operate under the name of "Griggs Van Lines," to apply the rates proposed only to "uncrated new and used furniture, fixtures, household goods, office equipment and antiques;" to apply only 90 per cent of the rates to shipments of 2000 pounds or more moving 50 miles or more; making a rate between intermediates not shown in rate schedule of one and one-half ( $1\frac{1}{2}$ ) cents per 100 pounds per mile only if such charge is less than the charge to the next more distant point, and 40 cents per 100 pounds loading and unloading charge only when such service actually is performed by applicant.

Amendment of the time schedules was also made providing schedules between termini on Tuesdays and Fridays of each week and fixing the route as the Ventura Boulevard, also known as the Coast highway and serving the following cities on scheduled trips: Santa Barbara, Summerland, Carpinteria, Ventura, Oxnard, Camarillo, Santa Paula, Fillmore and Los Angeles. As Camarillo, Santa Paula and Fillmore are not on Ventura Boulevard, it is proposed to reach them by detour under Rule No. 3 attached to the application as a part of Exhibit "A," providing for detours 30 miles on either side of the highway.

The important part of the amendments is the limitation of commodities to uncrated goods. Applicant in explaining this said, if tendered crated goods for shipment, they would be shipped by rail between his terminals or intermediates. The amendments met no objection from protestants.

Applicant proposes a schedule of rates (Exhibit "A" attached to the application) based on a rate of \$1.60 per 100 pounds between termini, approximately 100 miles apart, with proportionate rates for intermediate points, all subject to 10 per cent discount when the quantity exceeds 2,000 pounds and the distance 50 or more miles. His equipment consists of one truck van, used in line haul, and two small trucks used in pick up. Applicant has a storage warehouse at Santa Barbara. He has no terminal at Los Angeles but expects to establish one. Rule 4 of Section I, Rules and Regulations, provides for a charge of 8 per cent interest on deferred collections, but applicant agreed to strike this provision out.

Applicant herein has conducted since 1922 a transportation service, substantially as proposed in his instant application, the history of which is contained in Decisions Nos. 23228 and 22856 in Case No. 2850, and need not be repeated here. In view of this history the instant application may be treated as one de novo and subject to the test of present-day need and convenience of the public.

The evidence adduced from applicant's witnesses shows a continuous use of applicant's services and a general attitude of satisfaction with them based on dependability, personal attention and reasonable cost. Those witnesses produced at Santa Barbara were M. A. Talbott, Manager, Rogers Bros. Furniture Company, Hilma S. Carlson, Carlson Furniture Company, Albert Fawley, dealer in antiques, F. E. Bebout, manufacturer of rattan and reed goods, Harvey Erwin, Santa Barbara Furniture Company, Fred E. Hendricks, music dealer and pianos, J. S. Pecarro, buyer for E. S. Rogers, furniture, Fred Perkins, transfer business, Robert L. Lewis, wrought iron furniture, pottery and Indian curios, and Sam Farrington, china and

glassware, some of which are European imports through Los Angeles custom house. The businesses represented by these witnesses have used Griggs' service for years, and with considerable frequency and produced annual revenue of between \$7500 and \$8000.

In addition, applicant produced Los Angeles shippers in the persons of Jackson W. Kemble, Manager, Crown Transfer and Storage Company of Pasadena; M. E. Turner, Manager, L. A. Warehouse Company, Thomas L. McClellan, furniture manufacturer, John D. Stanley, Angelus Furniture Co., F. S. McCulloch, United Furniture Co., Roy J. Dodge, furniture manufacturer, all of Los Angeles, and L. E. Zimmerman of Long Beach, of Zimmerman Bros. operating certificated freight service between Long Beach and Los Angeles.

Their testimony was to the effect that applicant had transported uncrated furniture from factories and household goods to and from warehouses for varying periods of years and to the satisfaction of all. The witnesses from both cities expressed the belief that his services, conducted as they have been, are a necessity, and especially because applicant has been so efficient and careful that no shipments have met injury, except in one instance. The trips between termini have averaged two or three times weekly which witnesses regard as sufficient. Particular emphasis was laid by witnesses on the security with which applicant transported uncrated furniture. The volume of shipments, even through a period of depression, seems adequate to support the service offered.

Lyon Van Lines has four warehouses in Los Angeles, two offices in Pasadena, and one each in Glendale, Long Beach, Ventura and Santa Barbara. Its certificate authorizes transportation, at least once a week, of household furniture, etc.

between Los Angeles and Santa Barbara via Main highway and 25 miles on either side, and continuing north to San Francisco. It now employs 7 vans and 3 van trailers, though its President, Chester A. Nelson, testified that it has 50 pieces of equipment available. On its 68 northbound trips during the period, July 1, 1930, to March 1, 1931, it has transported 1934 pounds, and on 73 southbound trips 2527 pounds. Mr. Nelson testified that these trips always showed 50 per cent vacancy. The carrier pays 10 per cent commission on business brought to it by others. Its 1930 operations, he testified, were conducted at a loss.

Floyd J. Bekins, Manager of protestant Bekins Van Lines, a subsidiary of Bekins Van and Storage Company, has three warehouses in Los Angeles and one each in Beverly Hills, Hollywood and Pasadena. It has certificate to transport furniture and household goods between Los Angeles and Santa Barbara (and north to San Francisco) and has available 20 trucks and 10 van trailers, all equipped with padded interiors, balloon tires and air brakes; also, 55 additional pieces of equipment available. During 1930, 90 northbound trips to Santa Barbara carried 65 per cent of capacity and 92 southbound trips 75 per cent of capacity. While only one schedule weekly is required by certificate, the movements have been nearly twice that number. This carrier also pays ten per cent of its rates as commissions on business turned over to it by Bekins Warehouse & Storage Co.

The record shows that applicant has conducted substantially the same service he now proposes since 1925 when his Application No. 12061 was dismissed. In view of all the history of this operation the record does not show bad faith on the part of applicant since that time and it does show that he believed he was conducting his business within the law. The fact is established, however, that this service is now and has been for

many years that of a common carrier and as such requires a certificate of public convenience therefor, as provided in Chapter 213, Act of 1917 and amendments thereto. He is now, as in 1925, offering to submit to law and regulation of his business. For five years his service has met no complaint until the filing of Case 2650, in which protestants herein were complainants, and Decision No. 23228 thereon recognizes the confusing situation of applicant due to the dismissal of his application in 1925 due to the Ben Moore decision. In view of these facts and the present day testimony of many who use his service and need it because of his habitual efficiency, we believe that the application should be granted substantially as prayed for, within limitations justified by the record.

These limitations exclude Pasadena and Beverly Hills by prescribing lateral detours from the route travelled only north of the north limits of Los Angeles. To permit lateral rights south of this boundary would be to grant applicant competitive business with other carriers of the same commodities, when there is insufficient evidence of such need. The few shipments shown by the testimony should be brought to his Los Angeles terminal, when it is established.

We therefore find as a fact that public convenience and necessity require the operation by applicant of a trucking service by applicant for the transportation of uncrated or unboxed furniture, office fixtures, household goods and antiques between Los Angeles and Santa Barbara, as set forth in the order following.

A. M. GRIGGS 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. M. GRIGGS having made application to the Railroad Commission for a certificate of public convenience and necessity for the operation of a transportation service by auto truck between Los Angeles and Santa Barbara as a common carrier of household goods, furniture, office fixtures and furniture, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

The RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation of a common carrier trucking service for the transportation of uncrated and unboxed household goods, furniture (including antiques), office fixtures and furniture between Los Angeles and Santa Barbara and intermediate points over and along the following route:

Via Ventura Highway to Ventura, thence over State Highway to Santa Barbara, with the right to detour for pick-up or delivery, thirty miles on either side of said highway at all points between the north limits of the City of Los Angeles and the west limits of the City of Santa Barbara; and

IT IS HEREBY ORDERED, that a certificate of public convenience and necessity therefor be, and the same hereby is granted, to A. M. GRIGGS, applicant herein, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.

2. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
4. 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.
5. 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this <sup>20<sup>th</sup></sup> ~~15<sup>th</sup>~~ day of April, 1931.

CC Sawyer  
Leon A. Whaley  
M. A. Cunniff  
W. B. Harris  
Fred G. Stewart  
 Commissioners.