

Decision No. 24444

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PALM SPRINGS STAGE AND EXPRESS
COMPANY, C. W. CRANDALL, Owner,

Complainant,

vs.

MOTOR SERVICE EXPRESS, a corpo-
ration,

Defendant.

Case No. 3035.

ORIGINAL

George H. Wing, for complainant.

H. J. Bischoff, for defendant.

BY THE COMMISSION:

O P I N I O N

Complainant, C. W. Crandall, operates the Palm Springs Stage and Express Company between Palm Springs and Palm Springs Station in Riverside County, as a common carrier of passengers, freight and express. The authority to operate this common carrier service was originally granted to C. E. Bunker, Jr. April 29, 1918, by our Decision No. 5347 in Application No. 3688, was legally transferred a number of times, and was acquired by complainant April 24, 1924, by decision in Application No. 9997.

A public hearing was held before Examiner Geary at Palm Springs January 8, 1932, and the proceeding having been duly submitted is now ready for our opinion and order.

Complainant alleges that defendant, Motor Service Express, a corporation, has abandoned its service as contemplated by the certificate of public convenience and necessity between Palm Springs and Palm Springs Station, that there is now no public need or necessity for the services rendered by the defendant by reason of the fact that complainant maintains adequate accommodations for all classes of traffic, that any service rendered by the defendant will be against public interest because it may ultimately result in a curtailment of complainant's ability to maintain adequate schedules, and that there is not sufficient business to justify the operation of two common carriers between these points. The prayer is that the operating rights now held by defendant be cancelled and annulled and its services abandoned.

The certificate of public convenience and necessity under which the Motor Service Express operates was originally granted to H. L. Boutell and H. C. Fuqua by Decision 8965, Application 6428, May 12, 1921. The order in that decision read in part as follows:

"That public convenience and necessity require the operation by H. L. Boutell and H. C. Fuqua, of an automotive freight line as a common carrier of freight between Los Angeles, Pomona, Ontario, Riverside, Colton and San Bernardino on the one hand, and Whitewater,¹ Palm Springs, Indio, Coachella, Thermal and Mecca on the other, and also inter-locally between Banning and Mecca."

The certificate was transferred March 30, 1923, to R. M. Davis and E. E. Smith (Application 8607), and by them transferred February 8, 1925, to the Motor Service Express, Application 12244. Defendant and its predecessors have performed services continuously over the route as per time schedules on file in this office. There was testimony by a number of shipper witnesses to the effect

¹ The railroad station of Whitewater was subsequently changed to Palm Springs Station.

that the service now being rendered by the Palm Springs Stage and Express Company was sufficient and satisfactory, and that there was no use for more than one service. Testimony was presented on behalf of defendant showing that trucks were operated through Palm Springs Station daily except Sunday in connection with the operations between Los Angeles and Mecca; that the two communities, Palm Springs Station (located on the rails of the Southern Pacific) and Palm Springs (resort community) are points directly intermediate; that freight tariffs are on file with the Commission, and that defendant was ready at any and all times to transport tonnage between the two points involved. The volume of business secured by defendant was practically negligible and no particular efforts were made by it to secure the local tonnage between the points. The record indicates that the total tonnage between Palm Springs and Palm Springs Station is small and appears to be steadily declining, due to the fact that vehicles are taking more and more of the business over the highways between communities and do not use the railroad to and from the Palm Springs Station.

Careful analysis of our records and of the testimony presented in the instant proceeding does not in any manner show that defendant has violated the terms or the duties of its common carrier certificate. The mere fact that the volume of business is small, and that defendant has made no particular effort to secure any part of it, can cast no cloud upon the right to perform the service, and the public has the privilege under the time schedules and the rate tariffs to use defendant's lines when it elects to do so.

The proceeding will be dismissed.

O R D E R

This case having been duly heard and submitted, full

investigation of the matters and things involved having been had,
and basing this order on the findings of fact and the conclusions
contained in the preceding opinion,

IT IS HEREBY ORDERED that Case 3035 be and it is hereby
dismissed.

Dated at San Francisco, California, this 1st day
of February, 1932.

C. Seaver
Leon Whitely
M. A. C.
M. B. Harris
Fred G. Stewart
Commissioners.