

Decision No. 24758

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

MOTOR SERVICE EXPRESS, a corporation
Complainant,

vs.

LEONARD HILL and DEE HILL, doing
business as HILL BROS.,

Defendants.

) ORIGINAL
(
) Case No.3177.

H. J. BISCHOFF, for Complainant

W. P. ROUSE, for Defendants,

BY THE COMMISSION:

O P I N I O N

Motor Service Express, a corporation, has complained of Leonard Hill and Dee Hill, doing business as Hill Bros., alleging that said defendants are now engaged in owning, controlling, managing and operating auto trucks used in the transportation of property as a common carrier for compensation over the public highways between Los Angeles on the one hand, and Indio, Oasis and points intermediate thereto, on the other hand, without having obtained a certificate of public convenience and necessity so to do from the Railroad Commission as provided by the provisions of Chapter 213, Laws of 1917, and effective amendments. Complainant prays for an order requiring defendants to cease and desist such alleged illegal operation until such time as a certificate of public convenience and necessity will have been secured in accordance with the provisions of the statutory law.

Defendants filed their answer herein, said answer generally denying the material allegations of the complaint.

A public hearing on this complaint was conducted by Examiner Handford at Indio, the matter was duly submitted on the filing of briefs by counsel, the Commission is now fully advised and the matter is ready for decision.

It appears from the record in this proceeding that the defendants Leonard Hill and Dee Hill, operating as Hill Bros., are together engaged in truck farming in the Coachella Valley. Incidental to their truck farming they own two trucks which are used to transport the products of their ranch or truck farm to Los Angeles or San Francisco, whichever point may be the market at which the produce of the ranch is disposed of.

Ten witnesses, produce growers of the Coachella Valley testified that their crops moved to the Los Angeles market, some having shipped to San Francisco. Three of the witnesses had been solicited by defendants for the transportation of their products. Five of the witnesses had requested the defendants to haul shipments, knowing that they were hauling their own produce and that there was often additional space available on the trucks.

A careful review of the record in this proceeding shows that defendants in connection with the hauling of their farm products to the Los Angeles or San Francisco markets, hauled also the products of other truck growers in the Coachella Valley whenever such shipments were offered or could be secured and space was available on the trucks operated by defendants. For such transportation charges were assessed and collected by defendants. Defendants have solicited and have accepted such shipments and whenever space was available on trucks have transported same, and have accepted compensation therefor from Indio and Coachella Valley points to Los Angeles. It is our conclusion, from the record herein that such carriage is that of a common carrier and as such should have been done only if defendants were so authorized by a certificate of public convenience and necessity issued by this Commission in

accordance with the provisions of Chapter 213, Laws of 1917, and effective amendments. No such certificate has ever been applied for or issued to the defendants herein.

The prayer of the complainant for an order for defendants to cease and desist from the alleged illegal common carrier operation will be granted.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted on the filing of briefs by interested counsel, and the Commission being now fully advised,

It is hereby found as a fact that Leonard Hill and Dee Hill, doing business as Hill Bros., have operated and are now operating as a transportation company, and as a common carrier within the meaning of Chapter 213, Statutes of 1917, as amended, between Los Angeles, on the one hand, and Indio and points in the Coachella Valley, on the other hand, without first having secured a certificate of public convenience and necessity therefor, and

IT IS HEREBY ORDERED, that said Leonard Hill and said Dee Hill, operating as Hill Bros., immediately cease and desist their common carrier operations between Los Angeles, on the one hand, and Indio and points in the Coachella Valley, on the other hand, unless and until they shall have obtained a certificate of public convenience and necessity from this Commission in accordance with the provisions of Chapter 213, Laws of 1917, and effective amendments, and

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Leonard Hill and Dee Hill, doing business as Hill Bros., and that he shall cause certified copies of

this decision to be mailed to the District Attorneys of the Counties of Los Angeles, Riverside and San Bernardino, and to the Board of Public Utilities and Transportation of the City of Los Angeles and to the Department of Public Works, Division of Motor Vehicles, of Sacramento.

This decision shall become effective twenty (20) days from the date of service hereinabove mentioned.

Dated at San Francisco, California, this 9th day of May, 1932.

C. Deane
Leon Whitely

W. H. Carr

Fred G. Stewart
Commissioners.