

Decision No. 24797

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MOTOR FREIGHT TERMINAL COMPANY,)
a corporation,)

Complainant,)

vs.)

W. G. MEE, doing business under)
the fictitious name and style of)
Merchants Parcel and Freight)
Service; and JOHN DOE,)

Defendants.)

Case No. 3165.

ORIGINAL

John M. Atkinson and Wallace K. Downey,
by Wallace K. Downey, for complainant.
Richard T. Eddy, for defendant.
Frank Karr and E. Bissinger, by E. Bissinger
for Pacific Electric Railway Company and
Pacific Motor Transport Company, Intervenors.

BY THE COMMISSION:

O P I N I O N

Motor Freight Terminal Company, a corporation, herein complains of W. G. Mee, doing business under the fictitious name and style of Merchants Parcel and Freight Service, and John Doe, alleging that said defendants, and each of them, now are and for a long time past have been operating truck service as a common carrier and/or as a transportation company between Los Angeles and Wilmington or San Pedro without having secured a certificate of public convenience and necessity from this Commission and in violation of the provisions of Chapter 213, Statutes of 1917, and effective amendments.

Defendant, W. G. Mee, duly filed his answer herein generally denying the material allegations of the complaint.

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

W. G. Mee, defendant herein, testified that he did business under the fictitious name of Merchants Parcel and Freight Service that he used three trucks, two of 1½ tons capacity and one a small delivery truck. Witness' principal business is local delivery service in San Pedro and Wilmington. Incidental to the local business drugs and drug store supplies are regularly hauled from Los Angeles to Wilmington and sometimes empty boxes are returned from the drug stores in Wilmington to the Los Angeles wholesale drug houses. By stipulation the record shows that defendant Mee has since December, 1930, hauled drugs and supplies from wholesale drug concerns in Los Angeles to four drug stores in Wilmington, hauling being done on each day of the week, excepting Sunday, but loads being hauled on different days of the week for different consignees in Wilmington. The witness also testified as to occasional hauling for the Los Angeles Harbor Belt Railway and for a fish company and an engineering company at Wilmington. All this hauling has been between Wilmington and Los Angeles. Infrequent hauls of furniture and household goods have been made, not alone to Los Angeles but to or from any point for which arrangements were made. Witness, according to the record, recalls two instances when the service offered has been advertised in newspapers. Witness testified that he holds himself out to the public for any hauling that he may consider profitable, although 97½ percent of his business is now confined to local delivery hauling in Wilmington and San Pedro, and but 2½ percent of his business is the result

of hauling between Wilmington and Los Angeles and other outside points.

Defendant W. G. Mee is licensed to perform local drayage service within the City of Los Angeles. Wilmington and San Pedro are both within the municipal limits of the City of Los Angeles and are connected with the main portion of the city by what is known as the "shoe string strip." The record does not show that all hauling between Wilmington and Los Angeles has been performed over highways entirely within the city limits of the City of Los Angeles.

We have given careful consideration to the record and evidence in this proceeding. It appears therefrom that defendant W. G. Mee in connection with his local transfer business at San Pedro and Wilmington has regularly transported drugs and drug store supplies from wholesale drug houses in Los Angeles to four drug stores in Wilmington, and has occasionally hauled other commodities for packing companies, a railroad company, and for persons with whom business was available. It is not contended that in all cases the hauling so performed was done over highways located entirely within the corporate limits of the City of Los Angeles. Some of the hauling was performed on roads which are located in Los Angeles County or in cities other than Los Angeles. It appears that defendant Mee has advertised such business at least twice and that Mee personally and through his employes offers to furnish such hauling service if satisfactory financial arrangements may be made with prospective patrons.

We are of the opinion that there has been and is a definite holding out to the public of service as a common carrier between Los Angeles and Wilmington-San Pedro by defendant

Mee. The record shows no business of this nature having been refused if satisfactory financial arrangements could be made. It appears that this defendant, although primarily engaged in local transfer business at Wilmington and San Pedro has regularly hauled for four drug stores at Wilmington all drugs and drug store supplies between wholesale drug houses at Los Angeles to the drug stores at Wilmington, also such other occasional hauling for anyone with whom satisfactory and compensatory financial arrangements could be made. The holding out to the public by defendant Mee is that of a common carrier and the business is that governed by the jurisdiction of this Commission as imposed by Chapter 213, Laws of 1917, and effective amendments.

O R D E R

A public hearing having been held upon the above entitled complaint, the matter having been duly submitted upon the filing of briefs by interested counsel, and being now ready for decision,

THE RAILROAD COMMISSION HEREBY FINDS AS A FACT that the hauling by W. G. Mee, doing business under the fictitious name and style of Merchants Parcel and Freight Service, between Los Angeles and Wilmington or San Pedro and intermediate points, is the business of a common carrier and as such is in violation of the provisions of Chapter 213, Laws of 1917, and effective amendments, in that no certificate of public convenience and necessity has ever been applied for or granted by the Railroad Commission.

IT IS HEREBY ORDERED that W. G. Mee, doing business under the fictitious name and style of Merchants Parcel and Freight Service, immediately cease and desist his common carrier

operations between Los Angeles and Wilmington or San Pedro until he shall obtain the requisite certificate of public convenience and necessity from this Commission; 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 said W. G. Mee and that he shall cause certified copies of this decision to be mailed to the District Attorney of the County of Los Angeles, the Secretary of the Board of Public Utilities and Transportation of the City of Los Angeles, and the Department of Public Works, Division of Motor Vehicles, at Sacramento, California.

IT IS HEREBY FURTHER ORDERED that this complaint, in so far as it refers to defendant John Doe, be and the same hereby is dismissed.

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

Dated at San Francisco, California, this 23rd day of May, 1932.

C. L. Severy,
Leon A. Wheeler,
M. J. Lee,
M. B. Harris,
Fred G. Stewart
Commissioners.