

Decision No. 25331.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CITIZENS TRUCK COMPANY, LTD.)
for an order to clarify the) Application
operating rights originally) No. 18411
granted to Hudson & Hudson in)
Decision No. 5820.)

M.A. Casenave, Applicant.

Henry J. Bischoff for Donovan Transportation
Company and Rice Transportation Company,
interested parties.

R.C. Bliss for Pacific Motor Transport Company
and Southern Pacific Company, interested
parties.

BY THE COMMISSION:

O P I N I O N

ORIGINAL

Applicant herein seeks an order from this Commission "to clarify the operating rights originally granted to Hudson & Hudson in Decision No. 5820 dated October 21, 1918". The purpose of the clarification is to establish in the applicant, as the successor in interest, the right to serve points intermediate to Los Angeles and Long Beach based upon the original grant which while granting termini was silent as to intermediate points.

A public hearing thereon was conducted by Examiner Kennedy at Los Angeles on October 4 and at this time the matter was submitted for decision.

The testimony presented by applicant is that it succeeded to the right originally acquired by Hudson & Hudson which was subsequently transferred to a firm, Hudson, Hudson and Githens, later by this firm to the Tolson Transportation System and by this corporation to applicant Citizens Truck Company, Ltd. by Decision No. 24304, dated December 14, 1931, on Application No. 17838.

According to the testimony of M.A. Casenave, Citizens Truck Company, Ltd. continues, as did its predecessors, to serve Huntington Park, Southgate and Lynwood, incorporated communities in Los Angeles County, intermediate on the route originally granted between Los Angeles and Long Beach. It is proposed in using service from Huntington Park to go beyond the limits of that city to perform certain service for the Atchison, Topeka & Santa Fe Railway in distribution of its L.C.L. shipments. While negotiations for this service were being discussed the witness testified that it was discovered that the words "all intermediate points" had been omitted from Decision No. 5820 on Application No. 4106, in which the original grant was made. It is the insertion of this phrase that applicant now seeks. Under any relief granted in this application applicant would have no right to serve points outside the city limits of Huntington Park without possessing certificate therefor.

Reference is also made to a statement dated July 14, 1932 and executed under oath by Lynn C. Hudson as follows:

"I, Lynn C. Hudson, hereby certify that Hudson and Hudson, operating under the name of Auto Delivery Company, were conducting a transportation service continuously between Los Angeles and Long Beach and intermediate points prior to May 1, 1917; that rates to all intermediate points were charged same as to Long Beach proper."

This statement is indefinite as to points served, when the original action granting the certificate is considered in all of its phases. Application No. 4106 was filed under the name of American Transfer and Auto Delivery Company and was signed by Lynn C. Hudson. His partner was W.T. Hudson. The application proposed "to establish service for the transportation of an auto freight and baggage line between the City of Long Beach and the City of Los Angeles and intermediate points." "All intermediate points" is not stated in the title or elsewhere in the application. The tariffs submitted provide for no intermediate points. The time schedule mentions only

Long Beach and Los Angeles. The application was determined by Decision No. 5820, dated October 1, 1918. At that time the law required that all applicants procure from each municipality or county through which they operated or propose to operate, a permit to conduct the operation over the route described. The route provided by applicants was definitely established by permits issued by the Board of Supervisors of Los Angeles County on August 29, 1918, by a permit from the Board of Public Utilities of the City of Los Angeles granted September 19, 1918 and by permit of the City of Long Beach dated October 8, 1918 which final permit made effective the certificate granted. No permit was filed from Huntington Park, Lynwood or Southgate. The route to be followed by applicant as stated in the original grant and in the permits was as follows:

Beginning at 813 East 5th Street in the City of Los Angeles; east to Central Avenue; south on Central Avenue to Slauson Avenue; east on Slauson Avenue to Compton Avenue; south on Compton Avenue to Florence Avenue; east on Florence Avenue to Long Beach Boulevard; thence south on Long Beach Boulevard to West City Limits.

This route reversed is stated in the permit issued by the Supervisors and so far as applicant is concerned the routing granted within Long Beach is of no materiality in this proceeding. By the routing thus described applicant passed into the old city of Huntington Park at the junction of Florence Avenue and Long Beach Boulevard. Development south thereof consisted of Walnut Park which is now a portion of the city of Huntington Park. Subsequently Southgate Gardens was developed and south of the Gardens the Lynwood addition was developed. Later each grew into a city of considerable size, Southgate now having approximately 19,000 and Lynwood approximately 7,000 population. Development of each place was subsequent to the granting of the certificate although each is contiguous to Long Beach Boulevard. The evidence in the record in the original grant (which was made *exparte*) indicates it was the intention to grant the right for this service between termini. The subsequent testimony

of Mr. Hudson cannot be regarded as satisfactory because of its indefiniteness and it is a mere assertion without fixing time or points of service.

Applicant Citizens Truck Company Ltd. was a defendant in Case No. 1871 wherein it was found to have possessed a prescriptive right between Los Angeles and Los Angeles Harbor but to no intermediate points and in compliance with this order rates were filed. No rates for intermediate points between Long Beach and Los Angeles were filed by any operator until March 13, 1926 when Tolson Transportation System filed such rates, in its Supplement No. 2, C.R.C. No. 4.

After full consideration of the entire record in this matter, it is not convincing that the relief sought in this application should be granted and for that reason the application should be denied.

O R D E R

Citizens Truck Company Ltd., a corporation, having made application for the clarification of the operating rights originally granted to Hudson and Hudson in Decision No. 5820, dated October 1, 1918, on Application No. 4106, by the insertion of the words "and all intermediate points" in said decision, a public hearing having been held, the matter having been submitted for decision,

IT IS HEREBY ORDERED that the application be and the same hereby is denied.

Dated at San Francisco, California, this 7th day of November 1932.

C. C. Devery
Leon Whitely
W. J. Burr
W. B. Harris
Frederic H. Atterton
COMMISSIONERS.