

Decision No. 10213

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Appli-
cation of RUSSELL PECK, for
a certificate of public con-
venience and necessity to
operate an auto truck parcel
delivery service between Los
Angeles and Duarte, California,
and points contiguous.

Application No. 7262.

E.W. Blair, for applicant
M. Thompson, for American Railway Express, protestant
E.W. Kidd and Rex Hardy, for Keystone Express and
T.K. Vance, protestants
R.C. Gortnor, T.J. Day and C.W. Cornell, for Pacific
Electric Railway, protestant
Paul Burks, for Atchison, Topeka & Santa Fe Railway,
protestant
L.M. Bradshaw, for Southern Pacific Railway, protestant
Rex Hardy, for Walter Reisin, protestant
E.W. Kidd, for Motor Transport Company, protestant.

BY THE COMMISSION:

O P I N I O N

Russell Peck has applied to the Railroad Commission for a certificate of public convenience and necessity to operate auto truck parcel delivery service between Los Angeles and Duarte and points contiguous.

Public hearings were held by Examiner Williams, at Los Angeles. At the hearings it was developed by protest of other carriers that the applicant was also operating between Los Angeles and Whittier and intermediate points, and applicant was permitted to amend his application to include this route.

It was also developed that applicant operates many

other routes, not included in this application, under alleged rights established before May 1, 1917, and it was stipulated that the hearing should include these alleged rights and determine their validity.

As to the rights of applicant prior to May 1, 1917, the testimony of Russell Peck was undisputed by protestants, and found confirmation in the testimony of other witnesses. Peck testified that he had established a parcel delivery in Los Angeles City, February 1, 1903, and had maintained it continuously. The business was begun and continued as a rapid dispatch of parcels from retail mercantile stores. From an humble beginning it developed until on May 1, 1917, Peck testified, it consisted of seven trucks and its operation had expanded to regular trips to points far beyond the city's environs. At the time of the hearing applicant had in use thirty trucks, and some motorcycles with delivery side cars, handling the suburban delivery for many of the largest retail stores in Los Angeles. It is now a highly special rapid daily delivery of mercantile parcels and its efficiency and need is fully represented by the volume of business done, and in the support given to applicant by his largest customers through the testimony of their shipping clerks, one of whom testified to dealing with Peck for over six years, covering most of the points served and some now applied for. The testimony that applicant was then operating the ten routes alluded to prior to May 1, 1917, was conclusive and it must result in a finding of fact to that effect. The routes will be found set out in detail in the accompanying order.

It must also be found that the testimony shows public convenience and necessity for the two routes set out in the present application, as amended. The objections of protestants as to conflict of service and rates prove ineffective when

the difference in the character of the service of applicant and that of protestants is considered. The Peck service is an immediate auxiliary to the delivery system of many large stores, designed and equipped for this only and not intended or used for any other class of service. The testimony is convincing that similar efficiency could not be found in the service of any protestant, considering the volume of business and the dispatch necessary, especially if divided between many carriers, even if rates were in favor of protestants, which is not the fact. A certificate of public convenience and necessity for the extension of applicant's service to Duarte and Whittier should be granted.

It was pointed out that applicant had failed, even after official notice from the Commission in January, 1921, to file his tariffs, as was his duty under the law. Such tariffs were not offered until October, 1921, and at such time were not accepted by the Commission because of doubt as to the prescriptive rights thereby claimed by applicant. Applicant testified that he had arranged in January, 1921, for the filing of his tariffs and that he supposed his legal adviser had completed the filing. While applicant was seriously remiss in this, such fact should not outweigh the interest that his patrons have in the continuance of service to them.

The rates proposed by applicant are based on volume, value and weight, and bear no relation to distance of transportation. The charges are essentially for service and not for distance. The form proposed in the application seems complicated and ambiguous. The apparent intention is to make a charge of 1 cent per pound (limit of 50 pounds per package) between any two points within the territory described, with a minimum charge per package ranging from 50 cents to 15 cents, and dependent on the volume of business offered by the individual shipper. Anal-

ysis of this rate structure and the carrying out of provisions literally leads to the charging of rates that seem discriminatory, at least.

The proposed rates are not to be accepted or approved for the reasons given. Additional reason is found in the testimony of various shippers which discloses that the proposed structure is not in accordance with the rates that have been charged in the past. In fact it seems that applicant has varied his rate according to the shipper and that there has been an utter lack of uniformity. One witness testified that a department store was paying 25 cents a package, regardless of value, on a volume of business of \$300.00 a month. Another shipper had a flat rate of 20 cents per package on a volume of \$450.00 a month. Another shipper, who gave all his parcel delivery to applicant, was furnished stamps which were attached in any amount that the shipper deemed a fair rate for the package. This shipper's business amounted to about \$800.00 a month. Applicant testified that no other shipper had been furnished stamps. Still another shipper paid 20 cents a parcel on a volume of \$250.00 a month, which rate was based on the cost per parcel as arrived at by the use of its own delivery system. The reason given for such diversity is that shippers selected territory for service which made the cost more or less.

- Applicant must adopt a rate structure based on weight or units. The structure as submitted in the application is uniform in its weight charge (1 cent a pound) and it is preferable, perhaps, that this basis be continued as his patrons are familiar with it. The classification of business as to volume may be continued on the basis of gross amounts received, and when so done the carrier must, and without discrimination strictly adhere to the segregations and their minima.

Witnesses were unanimous in expressing their belief that the facilities of protestants are not adequate for their requirements. Applicant has established such relations with his patrons that he is able to give to each almost a personal service in practically the same way as covered by their own local delivery service. This opinion includes the American Railway Express service, which, while admittedly satisfactory as to service that was rendered could not be brought to the direct and superior efficiency of the Peck system.

Applicant in following the routes heretofore established and to be established, not only delivers daily along each route, but to a distance of five miles on either side and makes two return calls in case he is unable to deliver on the first call. He collects any amount up to \$200.00, without charge. To insure delivery and collection, Peck gives indemnity bond to some shippers. There should also be a general indemnity bond for the benefit of all shippers.

C O R D E R

Russell Peck having applied to the Railroad Commission for a certificate of public convenience and necessity to operate auto truck parcel delivery service between Los Angeles and Duarte and between Los Angeles and Whittier, and intermediate points, and also to establish his rights to other routes operated by him without previous authorization by this Commission, public hearings having been held, the matter being duly submitted and now ^{being} ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA finds as a fact that applicant, Russell Peck, was operating, bona fide, on and before May 1, 1917, parcel delivery service between the following points and five miles on either side thereof, over the following routes:

- 1 - From Los Angeles, via South Figueroa Street to Slauson Avenue, thence via Slauson to Long Beach Boulevard, thence via Long Beach Boulevard to Long Beach, and points intermediate.
- 2 - From Los Angeles, via South Figueroa Street to Slauson Avenue, thence via Slauson Avenue to Compton Boulevard, thence via Compton Boulevard to Compton, and points intermediate.
- 3 - From Los Angeles, via South Figueroa Street to Slauson Avenue, thence via Slauson Avenue to Main Street Boulevard, thence via Main Street Boulevard through the towns of Wilmington, Harbor City to San Pedro, and points intermediate.
- 4 - From Los Angeles, via South Figueroa Street to Slauson Avenue, thence via Slauson Avenue to Redondo Boulevard, thence on Redondo Boulevard through the town of Inglewood to Redondo, and points intermediate.
- 5 - From Los Angeles, via South Figueroa Street to Washington Boulevard, thence via Washington Boulevard to Venice, Ocean Park and Santa Monica, and points intermediate.
- 6 - From Los Angeles, via North Figueroa Street to Sunset Boulevard, thence via Sunset Boulevard through the towns of Sherman, Beverly Hills to Sawtelle, and points intermediate.
- 7 - From Los Angeles, via North Figueroa Street to Sunset Boulevard, thence via Sunset Boulevard to Hollywood, and points intermediate.
- 8 - From Los Angeles, via South Figueroa Street to Second Street, thence via Second Street to Glendale Boulevard, thence via Glendale Boulevard to Glendale, and points intermediate.
- 9 - From Los Angeles, via North Broadway to Huntington Drive, thence via Huntington Drive to Pasadena, and intermediate points.

10 - From Los Angeles via North Broadway to Huntington Drive, thence via Huntington Drive to Alhambra and San Gabriel; and points intermediate.

And that said operating rights are now confirmed; and restricted as above set out; and that said applicant file tariffs therefor on the basis as set forth in the opinion which precedes this order and in compliance with the provisions of General Order No. 51 of this Commission within fifteen days from the date of this order.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES, That public convenience and necessity require the operation by applicant of auto truck parcel delivery service between Los Angeles and Duarte and Los Angeles and Whittier; over the following routes:

Los Angeles, via North Main Street to Ocean to
Ocean Highway to Duarte; and to points intermediate;

Los Angeles; via Stephenson Avenue, to Whittier
Boulevard, to Whittier and to points intermediate;

IT IS HEREBY ORDERED; That a certificate of public convenience and necessity be; and the same hereby is; granted over the routes herein above stated, subject to the following conditions:

- 1 - That applicant; Russell Peck; shall file within fifteen (15) days from date hereof; his written acceptance of the certificate herein granted; and shall file within thirty (30) days of the date hereof; duplicate tariff of rates and time schedules; in accordance with General Order No. 51 of the Railroad Commission and the basis as set forth in the opinion which precedes this order; and that operation of such service shall begin within a period of thirty (30) days from date hereof.
- 2 - That applicant; Russell Peck; shall not sell; lease; assign or discontinue the service herein authorized; unless such sale, lease or assignment, or discontinuance shall have been authorized by the Railroad Commission.

- 3 - That no vehicle shall be operated by applicant unless such vehicles are owned by said applicant, or are leased under an agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 21st day
of March, 1922.

H. D. Loveland
James Martin
Robert H. Kenna

COMMISSIONERS.