

Decision No. 10293.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of W. M. HUFFMAN for certificate of public convenience and necessity to establish automobile freight and express service as a common carrier between Oakland and Turlock and intermediate points.

Application No. 7626.

ORIGINAL

Sanborn & Roehl, by Arthur Roehl, for Applicant.
Gwyn E. Baker, for White Lines, protestant.
L. N. Bradshaw, for Southern Pacific Company, protestant.
W. J. Shattuck, for Atchison, Topeka & Santa Fe Railway Co., protestant.
Edw. F. Stern, for American Railway Express Co., protestant.

BY THE COMMISSION.

O P I N I O N

A public hearing was held by Examiner Westover at Oakland on the above application, which seeks authority to operate automotive freight and express service as a common carrier between Oakland and Turlock, serving as intermediate points Pleasanton, Livermore, Tracy, Manteca, Ripon, Salida, Modesto, Ceres, and Keyes.

By Application No. 6476, applicant asked for authority to operate between Oakland and Turlock, and serve as intermediate points all of the above mentioned points, except Keyes and Pleas-

anton, but adding Haywards. The application limited the commodities to be transported to eggs, egg cases, butter fats, chickens and chicken crates. This was amended, however, at the hearing to include cream and to include Berkeley as a terminal for cream shipments. In the opinion in Decision No. 8892, of April 20, 1921, the Commission said, "The testimony justifies the granting of the application only as to butter and cream transported between Turlock, Oakland and Berkeley." The order specifically limits the authority to butter and cream moving between the three points named.

It appears from Mr. Huffman's testimony at the hearing upon the present application that he began operations in the summer of 1920 before he had received his original certificate, and that he hauled eggs, butter and cheese; and that when the decision upon Application No. 6476 was issued he did not limit his operations as provided in the certificate. He states that he did not learn until November, 1921, that his authority was so limited; that his attorney had previously notified him as to the result of the hearing that it was "all O.K.". The information received by Mr. Huffman in November was contained in a letter from the Commission under date of November 9, 1921, calling attention to the fact that he had not complied with the Commission's order by filing schedules and tariffs and demanding an explanation. The order provided that the authority did not become effective until and unless the schedules and tariffs were filed within twenty days.

On December 23d the Commission wrote Mr. Huffman, saying it was informed that he was advertising a service covering intermediate points and asking by what authority he was offering such service. To this letter the Commission received no reply.

so wrote him again on February 18, 1922, saying that if the service was not discontinued it would be necessary to take steps to revoke his certificate. This brought no direct reply, but on March 2, 1922, his "agent" wrote that Mr. Huffman had informed him that the advertising had been ordered discontinued "for the reason that same was misleading in that no service was being rendered to points other than specified in certificate."

It appears, however, from testimony of witnesses produced by Mr. Huffman at the hearing herein that they had been shipping by his line from Oakland to Livermore and Pleasanton three or four months, others having begun to patronize his lines as recently as two months ago, subsequent to the Commission's letter of December 23, 1921, asking by what authority he was offering such service. Mr. Huffman further testified that he did not cease the illegal operations complained of when notified, because to do so would mean that he would have to go out of business and that he had \$12,000.00 invested in the business.

The application will be denied and proper proceedings instituted to show cause why the present certificate should not be revoked.

ORDER

A public hearing having been held in the above entitled application, the matter being submitted and now ready for decision,

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity do not require the operation by W. M. Huffman of an automotive freight and express service as a common carrier between Oakland and Turlock, or any points intermediate thereto, and

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

Dated at San Francisco, California, this 6th day of April, 1922.

H. B. Randall

George Martin
Charles H. Lowell

J. H. McDonald
Commissioners.