

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

G. A. Reichman, owner of the
Etna-Fort Jones-Yreka Stage
Line of Fort Jones, California,
Complainant,)

vs.)

Hudson Reynolds, Ed Sheffield,
The Etna Meat Company, Albert
Vacent,)
Defendants.)

ORIGINAL

Case No. 1792

R. S. Taylor for Complainant

J. McNamara for Defendants

BY THE COMMISSION:

O-P-I-N-I-O-N

G. A. Reichman, doing business under the name of Etna-Fort Jones-Yreka Stage Line, complains of defendants, and each of them, alleging that said defendants have been operating automobile trucks for compensation between fixed termini in the County of Siskiyou, and in connection with such operation have made trips over the route, or portions of the route, operated by complainant under the jurisdiction of the Commission; that said defendants have no right or authority so to operate and that such operation is in violation of the provisions of Chapter 213, Statutes of 1917 in that no certificate of public convenience and necessity has been issued by this Commission authorizing the operation of automobile trucks for the carriage of property for compensation; that by reason of the alleged operation the complainant has suffered a material reduction in revenue from the operation of his authorized freight line, and that unless protection can be fur-

nished against illegal operation complainant will be obliged to curtail the service he now renders to the public. Complainant prays that defendants be required to show cause why they should not be restrained from operating their automobile trucks.

All of the defendants filed informal answers, each denying the material allegations of the complaint.

A public hearing on this matter was conducted by Examiner Handford at Yreka, the matter was duly submitted and is now ready for decision.

G. A. Reichman, complainant herein, testified that his freight and passenger line from Yreka to Etna Mills was established prior to the enactment of Chapter 213, Statutes of 1917, and that following the passage of such enactment his schedules and tariffs were duly filed with this Commission and operation has been continuously conducted under and in accordance with the requirements of the statutory law and the regulations of this Commission. His investment in horses, trucks and automobiles used in the conduct of his business approximates from \$12,000. to \$15,000. and he claims to be able to care for all business offering for movement over his route. It is his estimate that one-half of the hauling over his route is now being done by unauthorized carriers, although no complaint is made as to any infringement of his operative right by the carriage of passengers, the complaint being directed entirely as to freight. In substantiation of his complaint as to defendant, Sheffield, he testified that he had observed such defendant hauling freight between Yreka and Fort Jones and Greenview, trucks having been observed engaged in such hauling two or three times a week. Specific dates were mentioned upon which defendant, Sheffield, was alleged to have hauled consignments over the route of com-

plainant. As to the operation of defendant, Etna Meat Company, this witness testified that such defendant in connection with the hauling of its own shipments would haul on the return trip any freight obtainable and that such freight was hauled over the route of complainant excepting for a distance of about two miles from Yreka. No complaint was made as to such defendant hauling freight to or from Yreka. As to defendant, Vacent, this witness testified that hauling was done in a 3 1/2 ton truck between Yreka and Fort Jones, all over the direct route of complainant, although recently this defendant had been engaged in contract hauling and had not been noticed to be competing for business, the last date upon which the hauling of competitive business was noticed being on June 2, 1922. As to defendant, Reynolds, this witness testified that such defendant hauled freight whenever he could get either a load or part of a load between Yreka and Fort Jones; that a few trips were made during the spring of 1922; and that on August 22, 1922, the practice of hauling regularly was commenced and has still continued, grain being the commodity principally handled, and from the vicinity of Fort Jones to Montague, thus passing over a major portion of complainant's authorized route.

E. Sheffield, defendant, testified that he resided at Greenview, owned a truck and operated a service station at such point. He hauls some freight for compensation, partly under contract and other freight if same be offered to him. This witness testified that he began operating in 1908 in the transportation to the Franco-American Hotel in Yreka of meat, poultry and vegetables which he either raised at Greenview or purchased and in either case sold to the hotel, having a verbal contract to supply such commodities to the hotel. He

claims not to make daily trips and to have hauled ordinary freight for 50¢ per cwt. and heavy and bulky freight for \$1.25 per cwt., and to have secured a truck in 1915 which replaced the method of hauling previously done by team. Witness has never filed tariffs and schedules with the Railroad Commission, although claims to have continuously rendered the character of service as above described since its original commencement in 1908.

Albert Vacent, defendant, testified that he resided at Fort Jones and that he has hauled no freight from Yreka since June, 1922. He is at present hauling lumber under contract from a mill at or near Fort Jones to Montague, such hauling necessitating the use of a portion of the route served by complainant. No charge is made for the back haul from Montague to the saw mill, such back haul consisting of supplies for the mill. This witness has made a practice of hauling farm and ranch supplies such as wheat, cement, pipe, hogs and sheep, principally on the basis of renting his trucks on a daily basis, charging a rate of \$35.00 per day for a large truck and \$15.00 per day for a small truck. He has hauled some small shipments from Yreka to Fort Jones charging a rate of 35¢ per cwt. Witness began hauling in the fall of 1917, and holds himself out to go anywhere and at any time, for the truck load rates based on the size of the truck used.

M. C. Lauthan, one of the partners operating under the fictitious name of Etna Meat and Ice Company (such company herein named as defendant, Etna Meat Company) testified that his concern located at Etna shipped meat to Gazelle and Weed and other points in its own equipment and had hauled on the return trip to Etna and to Fort Jones, principally from Weed. Sugar, salt, hogs and other supplies have been so transported, it being the practice for carload lots of supplies to arrive at

Southern Pacific stations and be distributed in smaller quantities to various communities whose merchants had combined in the purchase of carload quantities. In connection with such operation, a portion of the route of complainant has been used, in fact practically all the route except for a distance of two miles out of Yreka. Three trucks are owned by this defendant.

Hudson G. Reynolds, defendant, testified that he was a farmer residing at Fort Jones; that he owned an auto truck and had hauled freight for others. Gasoline has been hauled by this defendant from Grenada to Fort Jones; salt to Fort Jones; wheat, Fort Jones to Montague; and recently blacksmith coal. This witness rents his truck on a basis of \$15.00 per day. In the hauling of some of these commodities, this defendant would require to use a considerable portion of the route of complainant.

The situation disclosed by the evidence in this proceeding is the transportation problem confronting communities in Siskiyou County which are remote from railroad service and whose products require to be transported to railroad points and to be delivered from such railroad points. The complainant herein possesses an operative right between the town of Yreka and Etna Mills, serving the community of Fort Jones as an intermediate point. Defendant, E. Sheffield, possesses an operative right between Greenview and Yreka by reason of operation having been commenced prior to May 1, 1917, the effective date of the legislative enactment known as Chapter 213, Statutes of 1917, upon which operation in good faith did not require a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the various political subdivisions through which a route passed. Defendant, Sheffield, has not perfected his operative right by filing the necessary time and rate schedules and com-

plying with the other regulations of this Commission, and such filings should immediately be made by this defendant as regards operation between Greenview and Yreka and any intermediate points which were being served on May 1, 1917. No right or expansion of service beyond that which was being given by this defendant on May 1, 1917, can now be claimed or covered by tariffs or rate schedules, as any expansion of route or enlargement of business beyond that offered to the public on such date is unauthorized and illegal operation until such time as a certificate of public convenience and necessity will have been obtained from this Commission.

Defendants, Vacent, Reynolds, and Etna Meat Company, have no operative rights and no authority to transport property for compensation over the route between Yreka and Etna Mills and intermediate points, and such operation, either in truck load lots or for smaller consignments should be immediately discontinued by such defendants, and by each of them. The hauling of property for compensation between Fort Jones and Etna Mills and stations on the main line of the Southern Pacific Company such as Gazelle, Weed and Montague, does not appear to be of sufficient frequency to justify the conclusion that the defendants complained of are engaged "in the business of transporting" property, for compensation, over any public highway in this state between fixed termini or over a regular route" as set forth in Section 1, paragraph "c" of Chapter 213, Statutes of 1917 and effective amendments thereto. The "for hire" service as operated by the defendants, Vacent and Reynolds, on the basis of going to any desired destination and insofar as such service is not rendered over a regular route or between fixed termini, and

is based on a fixed daily compensation for the size of truck used does not bring such defendants within the jurisdiction of this Commission as same is conferred by the statutory enactment, but no such operation should be continued serving the points comprised on the authorized route of complainant between Etna Mills and Yreka and including the intermediate point of Fort Jones.

After careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find the following facts:

- I. That the operation conducted by defendant, E. Sheffield, as a common carrier of property for compensation between Greenview and Yreka and any intermediate points which may have been served prior to and including May 1, 1917, is operation subject to the jurisdiction of the Railroad Commission by the provisions of Chapter 213, Statutes of 1917, and amendments thereto; and that defendant, E. Sheffield, by reason of continuous operation since May 1, 1917, is entitled to continue such operation by the proper filing of tariffs and time schedules in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.
- II. That the operation conducted by the partnership operating under the name and style of Etna Meat & Ice Co., Ltd., is not operation of sufficient regularity to be reasonably considered "business of transportation of persons or property, or as a common carrier, - - - between fixed termini or over a regular route" as such qualification appears in Section 1, paragraph "c" of Chapter 213, Statutes of 1917, and effective amendments thereto. That no showing has been made as to operation by this defendant between Yreka and other points served by the authorized line of complainant herein, all operation heretofore conducted having been over such portion of the route of complainant as was necessary to reach the communities at Etna Mills and Fort Jones.
- III. That the operation of "for hire" service as heretofore conducted by defendants,

Albert Vacent and Hudson G. Reynolds, insofar as such operation refers to hauling which has been made on the basis of hiring an entire truck on the basis of a daily rate, and to points other than those served by the line of complainant, is operation not within the jurisdiction of this Commission as conferred by the statutory law, there being no showing in this proceeding that such operation is of sufficient regularity to be reasonably considered "business of transportation of persons or property, or as a common carrier, - - - between fixed termini or over a regular route" as such qualification appears in Section 1, paragraph "c" of Chapter 213, Statutes of 1917, and effective amendments thereto. Operation in the carriage of small consignments of freight to or from Yreka when originating at or destined to points served by the authorized line of complainant herein, such shipments being transported at a rate per cwt. is in violation of the statutory enactment and the subsequent regulations of this Commission and should be at once discontinued.

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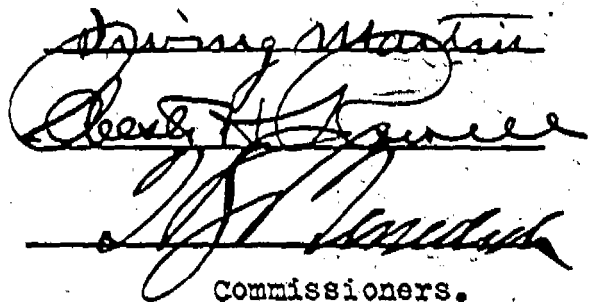
A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order,

IT IS HEREBY ORDERED

- I. That defendant, E. Sheffield, within thirty days from the date of service of this order, file with the Railroad Commission, tariffs and schedules in accordance with the provisions of General Order No. 51 and other regulations of this Commission, covering the operation of an automobile freight line between Greenview and Yreka; such tariffs and schedules to cover only such operation as actually given as of May 1, 1917.

- II. That defendants, Albert Vacent and Hudson G. Reynolds, be and they are hereby ordered to cease the operation of any automobile trucks in the carriage of freight between Yreka and Etna Mills and intermediate points.
- III. That this complaint insofar as same refers to the partnership operating under the name and style of Etna Meat & Ice Co., Ltd., (referred to in the complaint as "The Etna Meat Company") be and the same hereby is dismissed.

Dated at San Francisco, California, this 14th day of October, 1922.


Commissioners.