

Decision No. 11422

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of
PASADENA TRANSFER & STORAGE CO., a
corporation, for certificate of pub-
lic convenience and necessity to
operate freight, express and baggage
service between Pasadena and Los
Angeles.

Application No. 8301.

R. R. Sutton for applicant.
E. T. Lucey for Atchison, Topeka and
Santa Fe Railway.
E. E. Bennett for Union Pacific Railway
System.
H. M. Blair for Pasadena Electric Express,
Joe and Ed's Express, and Hodge
Transportation System, protestants.
Mrs. E. S. Macey for Auto Parcel Delivery.

BY THE COMMISSION.

O P I N I O N

A public hearing was held by Examiner Westover at Los Angeles upon the above entitled application for certificate of public convenience and necessity to operate a freight, express and baggage service between Los Angeles and Pasadena upon the ground that such service has been given regularly and continuously since a period prior to May 1, 1917. It appears from the testimony herein that applicant has been engaged in business in Pasadena for many years, in storage and moving, in the drayage business operated principally in Pasadena with occasional trips to Los Angeles, in the baggage transfer business between the railway

stations and Pasadena and Los Angeles, and in the transportation of general merchandise and freight regularly between Los Angeles and Pasadena and was so engaged prior to and since the adoption of Chapter 213, Laws of 1917. Applicant only recently offered its tariffs and schedules for filing, previously claiming that it was not under the jurisdiction of the Commission, principally for the reason that it did not have a freight terminal or office in Los Angeles, and that its baggage transfer business was operated only on separate calls. When the company finally offered its tariffs and schedules for filing they were not accepted; but because of the long delay it was directed to file application of the above character, that other carriers might be given opportunity to protest.

It further appears from the testimony that shortly after the adoption of the statute, and again at a later period, about 2-1/2 years ago, a representative of the Commission called upon applicant with reference to filing schedules and tariffs as required by the Commission's General Order, and upon facts presented at that time, the conclusion was reached that the company was not under the jurisdiction of the Commission. The books presented seemed to indicate that the company was engaged principally in a "for hire" service upon separate calls. Apparently it was not stated at that time whether or not the company was hauling freight or merchandise, but the impression received by the Commission's representative was that all of its hauling was on special calls and not over a regular route between fixed terminals.

It appears, however, from the testimony of Joseph Zimmerman of Joe and Ed's Express that at the time he drove for applicant in 1913, it was operating regular schedules between Los

Angeles and Pasadena hauling general freight and merchandise and that he observed continued operation of this character after he left its employ; that at this period and later applicant often operated as many as six vehicles on one round-trip schedule. The business was operated with teams for many years and about 1916, and subsequently, by trucks.

It satisfactorily appears from all the testimony that because of operation as a common carrier in good faith prior to May 1, 1917, applicant was not required by the statute, at the time of its adoption, to procure a certificate of public necessity and convenience; that such operation has continued regularly since, except for a period of three or four days, owing to a controversy with the federal revenue officials concerning payment of war tax, which was resolved by them in applicant's favor, and that its failure to file schedules and tariffs as required by the Commission's General Order was excusable under all the circumstances shown. The Commission therefore deems it unnecessary in this particular instance that applicant be now required to make proof of public necessity and convenience for its service in the same manner and to the same extent that would be required in the case of an applicant preparing to begin business, and that the showing made is sufficient to prove the continued existence of an operative right established prior to May 1, 1917.

Applicant moved ^{at} the hearing for leave to amend the form of its application to conform to the proofs submitted and to request a determination of its operative rights, if the Commission should conclude that such amendment should be made. Leave to amend as proposed is accordingly granted.

At an adjourned hearing applicant's regular route was shown to be that found in the Order.

O R D E R

A public hearing having been held in the above entitled application, the matter being submitted and now ready for decision, and it appearing that the applicant was operating in good faith on May 1, 1917, as a common carrier of freight, express and baggage between Los Angeles and Pasadena, over a regular route via Los Angeles Street, Macey Street, Mission Road, Huntington Drive, Oneonta Park, and Fair Oaks Ave., within the meaning of Chapter 213, Statutes of 1917, and has continued to so operate since that time, and it appearing therefore that it is unnecessary for it to procure a certificate of public convenience and necessity,

IT IS HEREBY ORDERED that applicant file copies of its tariff and time schedules within ten days from date hereof.

IT IS HEREBY FURTHER ORDERED that the application in all other respects be, and it is hereby dismissed.

Dated at San Francisco, California, this 29th day of December, 1922.

H. B. Brundage
Erving Martin
J. F. Brundage
Commissioners