

Decision No. 7566

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of )  
LOUIS LOMBARDO for certificate of )  
public convenience and necessity to ) Application No. 5112.  
operate (milk carrier) Freight ser- )  
vice between Los Angeles and Van Nuys. )

Andreani & Haines, for applicant.  
Herbert W. Kidd, for C. W. Mingus.  
Frank Carr by G. F. Squires, for Pacific Electric Ry.  
B. J. Cross, for Southern Pacific Co.  
M. Thompson, for American Railway Express Co.  
I. L. Hamilton, for Hamilton Truck Co.

BY THE COMMISSION:

O P I N I O N

Louis Lombardo applied for authority to operate a 2 ton auto truck as a carrier of milk between Los Angeles and Van Nuys, a public hearing for application was held by Examiner Westover at Los Angeles.

Both railroads, the express company and Hamilton Truck Company withdrew their opposition upon the stipulation that the proposed service would be limited to milk and dairy products.

C. W. Kingus, who operates a similar service under the name of Kingus Auto and Delivery, protests vigorously on the grounds that further service is not needed and with the contention that applicant is injuring his ability to render good service at a fair margin of profit.

Mr. Kingus began operation prior to May 1, 1917, and therefore, was not required by the statute to procure authority from the Railroad Commission. His tariff was not filed, however, until April 1, 1919. This tariff covers a charge of 18¢ per can from Van Nuys, Lankershim and Burbank.

Applicant began hauling his own milk to Los Angeles from his dairy  $1\frac{1}{2}$  miles East of Van Nuys about April, 1919, over a route leading through Lankershim, Cahuenga Pass and Hollywood, a route wholly in the city of Los Angeles and therefore not under the jurisdiction of the Commission.

At the request of neighboring dairies he began hauling milk for them also and now serves eight neighbors within a radius of three blocks from his dairy. Six of these were formerly patrons of Mr. Kingus.

The primary reason for the application is that applicant wishes to operate through Burbank instead of Hollywood, a route which would carry him outside the city limits of Los Angeles. The distance through Burbank is about three miles further but this route would avoid the grades of Cahuenga Pass.

Four of applicant's patrons, who were formerly patrons of Mr. Kingus, testified respectively that they were dissatisfied with his service because of some irregularity or dispute as to the time of morning when milk should be taken from the dairy, unwillingness to leave the paved boulevard to pick up milk, and

discounteers of drivers.

It appears that they induced Mr. Lombardo to haul their milk at 16¢ per can, the proposed rate, rather than to continue to pay Mr. Mingus' rate of 15¢ per can, which he was charging at that time. Three of Mr. Mingus patrons testified that his service had been entirely satisfactory.

Mr. Mingus operates eight auto cars in the trucking business, five of them used in milk routes, and two over the route in question. He testified that before applicant began he hauled about 140 cans a day and now hauls about half that number, and that he must have full loads to make the operation pay a reasonable profit; also that because of the obligation to return empty cans to the dairy there is little opportunity to make back hauls profitable.

Although Mr. Mingus' explanation of the circumstances surrounding the loss of patronage indicates that his service may not have been subject to very severe criticism, nevertheless patronage of Mr. Lombardo and his service, which appears from the evidence to have been excellent, has been developed in connection with the route haul within the city of Los Angeles and over which we have no jurisdiction. We therefore feel that we should take no action on the present application which will tend to disturb the situation thus created.

O R D E R

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

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require by Louis Lombardo the operation of an automobile truck line as a common carrier of milk and dairy produce between the business district of Los Angeles and that portion of said city known as Van Nuys but not between said business district and points easterly of the main north and south street through Lankershim; provided that applicant may at his option operate via Hollywood or Burbank .

The rights and privileges hereby granted may not be transferred nor assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been procured.

IT IS HEREBY ORDERED that no vehicle may be operated in said service unless said vehicle is owned by the applicant herein or is leased by said applicant under a contract or agreement satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that applicant, herein above named, shall within 20 days from the date hereof file with the Railroad Commission his schedules and tariff covering said proposed service, which shall be in addition to proposed

schedule and tariff accompanying the application, and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within 90 days from date hereof, unless time to begin operation is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above conditions are complied with.

Dated at San Francisco, California, this 10<sup>th</sup> day of May, 1920.

Edwin C. Edgerton  
H. D. Loveland  
Frank R. DeWitt  
H. T. Brundage  
Jessie Martin  
Commissioners.