

Decision No. 7635

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
H. B. LEWIS TRANSFER COMPANY for)
Certificate of Public Convenience) Application No. 5268
and Necessity to Operate Community)
of Inglewood Service between Ingle-)
wood and Los Angeles.)

Albert G. Payne, for Applicant.

Harry N. Blair for Redondo & Los Angeles
Express, S. & M. Truck Company, and
Wagner's Inglewood Express.

Frank Karr, by G. J. Squires, for
Pacific Electric Railway.

E. W. Camp by M. W. Reed for
Atchison Topeka & Santa Fe Ry.

BY THE COMMISSION.

O P I N I O N

H. B. Lewis applies for authority to operate an automobile freight truck service between Los Angeles and Inglewood. Public hearing on the application was held by Examiner Westover at Los Angeles.

The application does not indicate whether applicant wishes to operate as a common carrier or as a contract carrier. His proposed tariff filed as Exhibit "A" to the application indicates that it is the tariff of a contract carrier. List of patrons is attached.

Early in his testimony Mr. Lewis stated that he did

not wish to be subject to call the public but that he prefers to serve "by the day, hour or job" under private contracts made from time to time with his patrons.

Redondo and Los Angeles Express, Wagner's Inglewood Express, and both railroads protest against authorizing applicant to operate as a contract carrier upon the ground that the proposed tariff filed is the tariff of a common carrier with a list of patrons whom he proposes to serve, indicating practically all of the regular shippers of Inglewood. Subsequently applicant was granted leave to amend his application to ask authority to serve as a common carrier and to file proper proposed tariff therefor. The hearing proceeded as though the amended application to serve as a common carrier had previously been filed.

It appears from the testimony that Mr. Lewis has been operating as a contract carrier since early in 1917. Several of his patrons testified that his service had been very efficient and prompt. They also showed the advantage of a store-door delivery and saving in rehandling where goods would otherwise be transferred and drayed.

Mr. Lewis expects to use his present equipment, consisting of one 3-ton Alco Truck, one 2-ton Mack Truck and one $1\frac{1}{2}$ -ton Reo Truck in the proposed service.

Applicant's counsel indicated at the hearing that applicant proposed to continue contract hauling at those times when his equipment was not required in performing service as a common carrier under schedule to be set forth in his amended application.

The attitude of applicant at the hearing suggests that he perhaps considers his obligation as a common carrier and his obligation as a contract carrier to be so

different that he may, for example, transport goods at a fixed tariff rate upon his usual schedule, and after making his usual trip subsequently carry similar freight as a contract carrier over the same route and between the same terminals for a much smaller compensation.

Under a fair interpretation of the statute this could not be done in good faith. However, he ^{may} properly file tariff as a common carrier providing special rates for special or limited service, such as for full truck loads or hauling specified commodities during unusual hours. Thus any advantage of such service would be available to the general public and not limited to specially favored individuals.

O R D E R

A public hearing having been held in 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 the operation by E. B. Lewis of an automobile truck line as a common carrier of freight between Los Angeles and Inglewood.

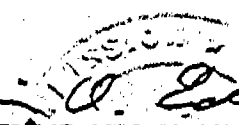
The rights and privileges hereby granted may not be transferred nor assigned unless the written consent of the Railroad Commission to such transfer or assignment has first been procured.

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 27th
day of May, 1920.


Edwin O. Edgerton
H. D. Leonard
Robert K. Herlin
David M. Weston
Commissioners.