

Decision No. 8650

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

C. W. CURPHEY,

Complainant,

-vs-

ED ROYCE,

Defendant.

Case No. 1502.

MOORE & GIBSON,

Complainant,

-vs-

ED ROYCE,

Defendant.

Case No. 1506.

In the Matter of the Application of  
ED ROYCE for certificate of public  
convenience and necessity to operate  
freight service between El Centro  
and Calexico, Imperial and Brawley,  
and intermediate points, under con-  
tract.

Application No. 6242

H. W. Kidd and E. N. Blair, for C. W. Curphey  
and Moore & Gibson.

Ross & Whitelaw, for Ed Royce.

F. B. Austin, for Southern Pacific Company.

BY THE COMMISSION:

ORDER

C. W. CURPHEY, complainant above named, alleges in  
substance and effect:

That said defendant, Ed Royce, is unlawfully and with-  
out authority of this Commission, operating auto trucks as a

utility line in the transportation of freight between El Centro and Calipatria, Calexico and intermediate points, in Imperial County, California, and prays for an order of this Commission directing him to discontinue forthwith said operations.

MOORE & GIBSON, complainants above named, allege in substance and effect, that said defendant, Ed Royce, is, unlawfully and without authority of this Commission, operating auto trucks as a utility line in the transportation of freight between El Centro and Holtville, and intermediate points, in Imperial County, California, and prays for an order of the Railroad Commission directing him to discontinue forthwith said operations.

ED ROYCE, above named defendant, in answer to each of said complaints, denies each and every allegation in respect to said alleged unlawful operations.

ED ROYCE, above named applicant, has petitioned the Railroad Commission for an order permitting him to establish service for the transportation of freight as a contract carrier between El Centro and Calexico, Imperial, Brawley, and intermediate points. Applicant sets out respectively in Exhibits "A", "B" and "C" attached to the application herein, his proposed fares and rates, time schedule and equipment. Applicant, at the hearing, moved for a dismissal of said application for the reason that he intends at an early date to file another application praying for a certificate of public convenience and necessity to operate as a common carrier of freight between the points named in said application. C. W. Curphey and Moore & Gibson, said com-

plainants, and the Southern Pacific Company protested the granting of said application.

A public hearing in the above-entitled matters was conducted by Examiner Satterwhite at El Centro on December 6, 1920. At the hearing said matters were consolidated to receive evidence for the reason that the evidence in each matter would be more or less pertinent and material in the other. Said matters were duly submitted and are now ready for decision.

C. W. CURBEY now operates an auto truck freight service between El Centro and Calipatria and Calexico and intermediate points in Imperial County California, under Decision No. 7600 of this Commission.

MOORE & GIBSON now operates an auto truck freight service between El Centro and Holtville and intermediate points in Imperial County, under Decision No. 8044 of this Commission.

Complainants called a large number of witnesses, including Ed Royce, in support of their complaints. The testimony shows that the defendant, prior to and ever since May 1, 1917, has operated a truck service between the places designated by the complainants in Imperial Valley; that he has hauled, more or less regularly between said points, loads composed of goods destined for more than one consignee and delivered to more than one consignee, and from more than one consignor to more than one consignee, for compensation; and that such hauling was done between the places mentioned by the complainants over regular routes. The testimony further shows that the defendant has never filed with this

list of

Commission any tariffs or time schedules or/equipment used, in accordance with the rules of this Commission, and has never complied with any of the rules and regulations of this Commission in his operations. It also further appears that the defendant has discriminated between consignors of freight in this: that he has refused consignments offered by one consignor in order to haul for another consignor at a larger compensation. It also appears that the defendant established no definite daily or weekly service between the points named, but maintained a rotation of service to each point, varying only to conform with the points to which consignments of goods, in the aggregate, were sufficient to make up a load of defendant's auto trucks.

The defendant testified in his own behalf to the effect that he had operated his truck service between the places designated by the complainants without any desire or attempt to violate the law or the rules and regulations of this Commission; he also admitted that he learned in the month of May, 1917, that it was the duty of any one operating an auto freight truck service, to file tariffs, time schedules and equipment in accordance with the rules of this Commission; and he stipulated at the hearing that he would cease all operations in violation of the law relative to the operation of transportation companies, either directly or indirectly, until authorized by this Commission.

After careful consideration of all the evidence, we are of the opinion, and find as a fact, that ED ROYCE is unlawfully operating an auto truck service as a common carrier of freight between El Centro and Calipatria, and Calexico and intermediate points, and between El Centro and Holtville, and intermediate points within Imperial County, California.

IT IS THEREFORE ORDERED, that ED ROYCE be, and he is hereby directed to discontinue forthwith said auto truck service as a common carrier of freight between El Centro and Calipatria and Calexico, and intermediate points, and between El Centro and Holtville, and intermediate points, within Imperial County, California.

GOOD CAUSE APPEARING THEREFOR, and in pursuance of the motion in open Court of said Ed Royce,

IT IS HEREBY ORDERED that the above-named application be, and the same is hereby dismissed.

Dated at San Francisco, California, this 21<sup>st</sup> day of February, 1921.

H. J. Loveland  
Frank P. Hulme  
H. B. Ludwig  
George Martin  
Chas. H. Louch  
Commissioners.