

SR

Decision No. 9330

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
S. B. COWAN for Certificate of Public
Convenience and Necessity to operate
freight and truck service between Los
Angeles and Huntington Park, Northam,
Olinda, Olive, Cypress, El Modena,
Delhi and Sugar Factory. } Application No. 6570

In the Matter of the Commission's
investigation of the extent of op-
erations and character of service
rendered by S. B. COWAN as a trans-
portation company. } Case No. 1622

Bishop & Wellington and H. W. Kidd, for Applicant,
in Application No. 6570.
W. H. Kidd, for S. B. Cowan, in Case 1622.
Frank Karr, J. D. Taggart & W. B. Peregoy, for
Pacific Electric Railway.
B. J. Cross, for Southern Pacific Company.
T. A. Woods, for American Railway Express Company.
Joe Burke for L. L. Smith.

BY THE COMMISSION:

O P I N I O N

By Application No. 6570, S. B. Cowan, operating
under the fictitious name of Triangle, Orange County and
Santa Ana Express, seeks authority to add to his present
service, freight service between Los Angeles and Olinda,
Olive, El Modena, Delhi and Sugar Factory.

Public hearings upon the application were held by
Examiner Westover in Santa Ana and Los Angeles.

At the first hearing in Santa Ana, a doubt having
arisen as to the regularity and nature of the present service

of applicant, most of which was inaugurated prior to May 1, 1917, and prior to the time when the Commission was given jurisdiction over transportation companies, the Commission, upon its own motion, instituted an investigation to determine the nature and extent of Mr. Cowan's operations on May 1, 1917 and subsequent thereto, and to determine whether his service is reasonable and adequate.

At the Los Angeles hearing it appeared that one shipper had three claims for small amounts, representing double charges on shipments which had been prepaid and also collected from the consignee; and two claims for breakage and damage to goods in transit. These claims had been pending unadjusted for a considerable time, and after considerable effort and loss of time on the part of the consignee, two of the claims for overcharge appear to have been finally paid by Mr. Cowan's driver out of his own pocket, there being no testimony indicating that the driver was subsequently recompensed.

Pending the second hearing, Mr. Cowan and the Commission's service inspection department checked over his present service very carefully and prepared a map and statement showing the service given on three separate routes by which points in Mr. Cowan's territory are regularly served by his trucks. It appears from this check and his testimony at the hearing that points shown on his tariff, C. R. C. No. 1, effective September 30, 1918, with the exception of Tustin, are all served regularly. By leave granted at the hearing, this point was dropped from his tariff and present application amended by leave to omit the proposed service to Huntington Park, already served, to Northam and to Cypress.

Testimony was presented tending to show the need of service at Olinda, El Modena and Olive, three points which are

not served by any truck line. El Modena is served by the Southern Pacific's Tustin branch and Olive and Olinda by the Santa Fe's branch line, north from Olive, but the rail service is infrequent and without facilities for pick-up and delivery, which are included in applicant's proposed service. Delhi and Sugar Factory do not appear to need additional service, and the application as to those points will be denied.

It developed at the hearing that Mr. Cowan had never filed a time schedule with the Commission and claimed that he did not know this was necessary in the case of a freight line. It is of course desirable that shippers may know when goods may be shipped or received, so they may plan accordingly, and this is the ground for the rule requiring such filing. Truck lines are required to operate upon published schedules, although the exigencies of the business may at times make it impossible to keep to the schedule exactly, as, for instance, when trucks break down.

Mr. Cowan should at once file proper schedules and inaugurate a method of promptly and satisfactorily adjusting all claims, or refer them to the Commission for adjustment when an honest doubt arises as to the interpretation or application of tariffs, classification, rules or regulations.

It also developed at the hearing, incidentally, that confusion exists in C. R. C. No. 1 as to application of minimum rates. By Rule 5 of the tariff the minimum charge for a single shipment is 25 cents for 30 pounds or less; 35 cents for shipments weighting 31 to 80 pounds, and "50 cents thereon," while under Section 3, Commodity Rates, there is a provision covering "department store packages, minimum 20 cents," and "department store packages 40 cents per 100 pounds."

These inconsistencies, with any others which may develop by careful study of the tariff on the part of Mr. Cowan and his advisers, should be eliminated by preparation and filing of a new tariff.

O R D E R

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

The Railroad Commission hereby finds that, so far as appears from the testimony, S. B. Cowan, operating a freight and express truck service between Los Angeles and Santa Ana and intermediate points, under the fictitious name of Triangle, Orange County and Santa Ana Express, is rendering reasonably adequate service to all of the points mentioned in his tariff, C.R.C. No.1, except to Tustin, and with reasonably adequate facilities therefor.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the operation by said S. B. Cowan of a freight and express truck service between Los Angeles and points now served by him, as shown in his tariff C.R.C. No.1, on the one hand, and Olinda, El Modena and Olive on the other hand.

The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

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 ORDERED that applicant shall within twenty days from the date hereof file with the Railroad Commission his

schedules and tariffs 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 ninety days from date hereof, unless time to begin operating is extended by formal supplemental order.

The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

IT IS HEREBY FURTHER ORDERED that said S. B. Cowan be and he is hereby directed to file with the Commission within twenty days a time schedule showing the time of arrival and departure at each town on each route and each schedule, and to operate on such schedules as nearly as may be; and a statement showing the several routings of his trucks now serving in the territory between Los Angeles and Santa Ana and the points hereinabove authorized to be served; and that within twenty days he file revised tariff clearly showing rates and minimum charges, classifications, rules and regulations applying to traffic moving over his said routes.

IT IS HEREBY FURTHER ORDERED that said S. B. Cowan at once proceed to settle all just claims of his shippers for overcharges now pending undetermined, and hereafter use all reasonable endeavor to promptly adjust and pay all just overcharge claims.

Dated at San Francisco, California, this 8th day of August, 1921.

H. B. ...

H. ...

... Martin

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Commissioners.