Decision No. 28563

BEFORE THE RAILROAD COLLUSSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASBURY TRUCK COMPANY, a corporation, for a certificate of public convenience and necessity to operate an automobile transportation service as a common carrier for the transportation of oil well supplies, heavy machinery, pipe, steel, tanks, gasoline and petroleum products, between Long Reach and Low Angeles Harbor points (including Wilmington and San Pedro) and the City of Los Angeles proper via Alemeda Street (Truck Blvd.) with branches to Watts and Inglewood, etc.

Application No.18634



- R. E. Wedekind for Southern Pacific Company, Pacific Electric Railway Co., Pacific Motor Transport Co., and Pacific Motor Trucking Co.
- H. J. Bischoff for Motor Service Express and Rice Transportation Co.
- W. K. Downey, for Motor Freight Terminal Co.

Rex W. Boston and Clarence L. Ripley, for petitioner.

CARR, Commissioner -

## OPINION AND ORDER ON REHEARING

On the motion of applicant, a partial rehearing was granted respecting certain of the limitations contained in the in lieu certificate. Public hearing has been had and the matter is ready for determination.

The in lieu certificate granted was framed to represent what the Commission intended to accomplish but ineptly expressed when it certificated this applicant in 1927. The request of applicant to eliminate the weight limitation contained in the original certification and carried into the in lieu certificate should not be granted, as that would invest the applicant with a substantially broader right than was originally intended.

To remove the weight limitation now would permit this applicant to engage in a business such as is usually conducted by certificated carriers operating without limitation in their certificate. This field is already substantially covered, except as between Los Angeles and the Kettleman fields. Concurrently herewith a certificate is being granted to Motor Freight Terminal Company (Application No.18919), an established carrier which has operated in accordance with law, permitting an extension of its service to this field. However, upon further consideration it is concluded that in two respects the in lieu certificate perhaps circumscribes the operations of applicant more closely than was contemplated by the original certificate or by the order granting the in lieu certificate. The order will modify somewhat two of the provisions of the in lieu certificate. The limitations modified were for the purpose of insuring an observance of the certificate. As modified herein, they should still eccomplish this end just as efficaciously.

I recommend the following form of order:

## ORDER

Public hearing having been had,

IT IS MERREDY ORDERED that the order herein of date August 21, 1933, be and the same hereby is affirmed and adopted as the order of the Commission, except that paragraph (c), page 10 of the typewritten Opinion and Order, and also paragraph (b) (used in defining the expression oil well supplies), page 12 of the typewritten Opinion and Order, be modified as follows, the new matter being underscored:

<sup>&</sup>quot;(c) Each load to be limited to shipments from one consignor to one or more consignees, or to shipments from one or more consignors to one consignee, except that such load may also include consignments of oil well supplies from or to established oil well supply nouses and their branch stores in the oil fields without reward to the number of consignors or consignees."

"(b) In addition, such commodifies as may be incidental or necessary to the establishment or dismantling of an oil well, but only when such additional commodities are shipped by or consigned and delivered to the person, firm or corporation establishing, operating, or dismantling such well, or when such commodities are transported between established oil well supply houses and their branch stores in the oil fields."

The foregoing opinion and order on rehearing are hereby approved and ordered filed as the opinion and order on rehearing of the Railroad Commission of the State of California.

Dated at San Francisco, California, this of Montes, 1933.