

Decision No. 26522

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

RICHARD C. WINCHELL,

Complainant,

vs.

MRS. W. A. OBARR,

Defendant.

Case No. 3624

ORIGINAL

Franklin G. West, for Complainant.

L. A. West, for Defendant.

BY THE COMMISSION -

O P I N I O N

Complainant herein operates under authority of Decision No. 24419, dated January 25, 1932, on Application No. 17912, a passenger transportation service between Santa Ana and Tustin. Complainant is not entitled to serve beyond Tustin.

Defendant herein is employed by the Tustin Hills Citrus Association at its packing house on Newport Road, approximately one half mile west of Tustin city limits.

Complainant alleges that Mrs. Obar is conducting transportation as a common carrier between Santa Ana and Tustin without having first secured a certificate of public convenience and necessity from this Commission. He prays that the defendant be ordered to cease and desist such operations.

Public hearing herein was conducted by Examiner Kennedy at Santa Ana and the matter was duly submitted for decision.

There is little conflict as to the existing facts. Complainant operates and maintains a service between Santa Ana and Tustin by proper authority and under rates and time schedules duly filed with this Commission. Mrs. Obar, as an employee of the packing house, transports not only herself but four or five

other employees in her automobile between Santa Ana and the packing house. For this she charges compensation usually of 75 cents per week, although she received as much as \$1.00 for full six days service back and forth. Such operations have been conducted in the packing season, usually between May and November each year, and always for co-employees at the packing plant where she was employed. The distance is a little more than three miles.

While complainant is authorized to serve between Santa Ana and Tustin, he has long given service to the packing house outside of the limits of Tustin, a city of the 5th class. It appears from the record in this case that neither complainant nor defendant is authorized to serve the packing house itself. It is apparent that Mrs. Obar does, for the accommodation of her co-employees and neighbors, transport them in her automobile to and from their employment. It is unimportant whether the compensation she receives is in cash and according to a regular tariff or whether it is in form of commodities. Her operations border on a technical violation of the Public Utilities Act governing passenger operations. It does not appear, however, that under circumstances of this character and on the complaint made, the defendant should be ordered to cease and desist. We feel rather that admonishment to her that the service she is rendering is perilously near a violation of law and should be discontinued before it unquestionably becomes a violation is proper. We also feel complainant should be admonished to cease going beyond the limits of his certificate until proper authority has been obtained by supplemental application.

ORDER

The above entitled complaint having been heard and duly submitted, and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that the complaint be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 13th day of November, 1933.

C. C. Leary

Leon Whitwell

M. A. Con

M. B. Harris

Matthew M. ...
COMMISSIONERS.