

Decision No. 28558

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ALBERT L. WEBB for certificate of
public convenience and necessity to
operate an express and delivery service
between Los Angeles and Venice, and
between Los Angeles and Pasadena, including
intermediate points over the routes
set forth.

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)
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) Application
) No. 19071
)

ORIGINAL

Harold D. Kraft, for Applicant.
Phil Jacobson, for Goldberg Film Delivery, Protestant.
Knight & Armour by Merrill Armour, for J. N. Anderson,
Protestant.
Edward Stern, for Railway Express Agency, Protestant.
H. W. Hobbs, for Southern Pacific Company and
Pacific Motor Transport Company, Protestants.
H. J. Bischoff, for Rice Transportation Company,
Security Van and Storage Company, Union Transfer
and Storage Co. and Shear Transfer & Storage Co.,
Protestants.
L. A. Diether, Deputy City Attorney, for City of
Pasadena, Interested party.

BY THE COMMISSION -

OPINION

Applicant seeks a certificate of public convenience and necessity to establish and maintain auto truck transportation of motion picture films between Los Angeles and South Pasadena, Pasadena, Glendale, West Los Angeles, Santa Monica, Ocean Park and Venice.

Public hearing thereon was conducted by Examiner Kennedy at Los Angeles.

Applicant began the distribution of films among theaters of the West Coast Theaters chain in 1928. Independent theaters were added and at the time of the hearing he was serving 21 theaters. Of these only one - at Alhambra - was not included in the certificate sought. The service performed is only for films, projecting machinery and parts, advertising matter, etc.

and is similar to that of other operators now possessing certificates. Applicant has used two trucks owned by the Fox West Coast Theaters Service Corporation but will acquire these vehicles if a certificate is granted. Applicant proposed a schedule of rates in the application which was amended at the hearing and, as amended, provides for a rate of \$2 per week where there is only one change of film and no lobby display, and \$4.00 with lobby display; \$4.00 per week for two or more changes and no lobby display and \$5.70 including lobby display.

These rates were criticized by protestant Goldberg, whose lowest rate is \$20 a month for any service, as non-compensatory. Applicant testified they are the rates he has long charged; that they would produce about \$350 a month gross and maintain himself and his brother (an employee) in the business.

Benjamin S. Goldberg testified that he formerly served five theaters in Glendale but only one now, due to West Coast consolidations and price reduction by applicant. While the testimony is in disagreement as to what minima should be established, applicant has survived several years on the rates he proposes and they are apparently satisfactory to his patrons. Applicant's efficiency and reasonableness of the rates were approved by the testimony of seven theater managers and by written communications from others.

Applicant seeks to serve territory already under certificate issued to Goldberg Film Company under our assumption of jurisdiction over such transportation, as found in Decision No.25493, dated December 27, 1932, on Application No.18271. Prior to this decision film and accessory transportation was conducted by all the parties involved in this proceeding, except J.N.Anderson, without certificates following our previous decision in Hare v. Gilboy (C.R.C. 31, p.566), indicating lack of jurisdiction under the facts in the record in that proceeding. Applicant, as well as protestant Goldberg, competed for about four years

in the same area and applicant now proposes to clothe his operations, thus established under freedom from regulation with the same status sought by Goldberg. Applicant is not proposing something new but seeks to conform to the law as now fixed just as Goldberg and others are doing. Equitable treatment of both justifies the granting of the certificate sought by applicant, and sustained by the testimony of those who have used his service for years. An order accordingly will be entered.

Albert L. Webb is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

ORDER

Albert L. Webb having made application for a certificate of public convenience and necessity for the transportation by auto truck of films and accessories between Los Angeles and contiguous cities, a public hearing having been held and the matter having been duly submitted for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation as a common carrier of such service between Los Angeles and South Pasadena, Pasadena, Glendale, Santa Monica, Ocean Park and Venice, over and along the following routes:

Starting at Washington Boulevard and Vermont Avenue in Los Angeles, north on Vermont Avenue via Hyperion Avenue and Glendale Boulevard to theater number one on San Fernando Road near Glendale Boulevard, thence north on Central Avenue to Glendale theaters, thence across Colorado Boulevard to Pasadena, thence south on Fair Oaks Avenue to South Pasadena, or vice versa.

Starting at Washington Boulevard and Vermont Avenue, thence to Venice, San Vicente and Wilshire Boulevard to Westwood Village, thence along Wilshire and Sepulveda Boulevards to West Los Angeles, thence along Wilshire Boulevard to Santa Monica, thence along Main Street to Ocean Park, thence along Speedway to Venice, or vice versa,

and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to Albert L. Webb, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof, stipulating therein that the certificate herein granted is limited to the transportation as a common carrier of films for motion picture theaters, where such films are to be exhibited, and film accessories limited to projecting machinery and parts therefor, advertising matter, electrical lighting effects, including bulbs, advertising slides and tickets, and no other commodities.
2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the preceding opinion insofar as they conform to the certificate herein granted.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by UM under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 25th day of November, 1933.

O. C. Seaver
Leon Whittell
M. J. Carr
Walter Moore
COMMISSIONERS.