

26825

Decision No. 26825

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
OLAF HAWKINSON for authority to  
discontinue operation of an automobile  
service as a common carrier between  
Jelly and Red Bluff, Tehama county,  
California.

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)  
) Application No. 19316  
)  
)  
)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Olaf Hawkinson, operating, by authority of Decision No. 12304, on Application No. 9132, a passenger and express service by automobile between Red Bluff and Jelly, seeks authority to discontinue said service and for an order revoking his operating right therefor. He alleges that the operation is unprofitable.

Applicant's annual report for 1933 shows gross receipts of \$771.55, of which \$748.00 was for the transportation of United States mail. Passenger receipts were \$12.00 and \$10.75 from express.

This is a matter in which a public hearing is not necessary. The application will be granted.

IT IS HEREBY ORDERED that Olaf Hawkinson be and he is hereby authorized to discontinue all service between Red Bluff and Jelly for the transportation by automobile of passengers and express, provided, that at least five (5) days before the effective date of such discontinuance he shall file with this Commission withdrawal and cancellation of tariffs and time schedules covering such service; and

IT IS HEREBY FURTHER ORDERED that all operating rights  
heretofore granted by Decision No.12304, on Application  
No.9132, be and the same hereby are revoked and annulled.

Dated at San Francisco, California, this 26<sup>th</sup> day  
of February, 1934.

C. L. Lewis

Leon O. White

M. J. Am

M. B. Lewis

W. H. W. W.  
COMMISSIONERS.

"The record shows that no trucks or other equipment are owned by defendant Moye Forwarding Company. It does show, however, that the Moye Forwarding Company receives and transports shipments by using the facilities of truck owners or operators under so-called verbal contracts, and that the operations of such trucks are controlled by Moye Forwarding Company to the extent that destinations are specified and truck drivers receipt for and handle shipments in the name of Moye Forwarding Company and carry out instructions as furnished by such company. \* \* \* \* \*

From the record herein we conclude that defendant Moye Forwarding Company is acting as a transportation company by controlling the shipment of property over the public highways of this State between Los Angeles and San Francisco and between Los Angeles and Fresno and intermediate points and that it should cease and desist such operations until a certificate of public convenience and necessity has been obtained as required by the statutory law." pp. 860-861.

An order of this Commission finding an operation to be unlawful and directing it to be discontinued is in its effect not unlike an injunction. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. Motor Freight Terminal Co. vs. Bray, 37 C.R.C. 224; Ball & Hayes, 37 C.R.C. 487; Wermuth vs. Stammer, 36 C.R.C. 458; Pioneer Express Co. vs. Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck Transportation Act (Statutes 1917, Chapter 213, as amended), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000. or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment. Likewise a shipper or other person who aids or abets in the violation of an order of

the Commission is punishable in the same manner.

O R D E R

The following findings and order are recommended:

IT IS HEREBY FOUND AS A FACT that defendant C. L. Buck, doing business under the fictitious name and style of Buck Transportation Company, is engaged in the transportation of property by auto truck for compensation and as a common carrier between fixed termini, namely, between San Francisco on the one hand, and Coalinga, Bakersfield, Clovis and intermediate points on the other, and between San Francisco on the one hand and Ventura and intermediate points on the other, without first having obtained a certificate of public convenience and necessity for such operations, as required by the Auto Truck Transportation Act, (Chapter 213, Statutes of 1917, as amended), therefore,

IT IS HEREBY ORDERED that defendant C.L.Buck shall immediately cease such common carrier operations as described in the preceding paragraph, unless and until a certificate of public convenience and necessity is obtained from the Commission therefor, and notice is hereby given that such common carrier operations shall not be conducted by C.L.Buck either directly or indirectly, or by his agents, employees, representatives or assignees.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission cause personal service of a certified copy of this order to be made upon defendant C.L.Buck, and that copies of this order be mailed to the District Attorneys of <sup>the</sup> Counties of San Francisco, San Mateo, Santa Clara, Fresno, Tulare and Kern; to the Board of Public Utilities and Transportation of the City of Los Angeles, and to the Department of Public Works, Division of Highways, at Sacramento.

The effective date of this order is hereby fixed as twenty (20) days from and after the date of personal service of this order as hereinabove directed.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of February, 1934.

J. L. Secary  
Leon Swisher  
W. J. C.  
M. B. H.  
W. L. H.  
COMMISSIONERS.