

Decision No. 26998

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

GUY S. ALEXANDER and L. B. LARSON,)

Complainants,)

vs.)

Case No. 3703.)

SMITH AUTO COMPANY, EARL NEWLAN,)
U. G. SMITH, GEORGE WOODS and)
CHARLES WATERS,)

Defendants.)

Guy S. Alexander and L. B. Larson, in propria persona.

Owen C. Emery, for defendants.

BY THE COMMISSION:

O P I N I O N

Complainants Guy S. Alexander and L. B. Larson are the owners of the High Sierras Transport Company, a fictitious name for a certificated auto truck line authorized by our Decision No. 11722 in Application No. 8027, dated February 27, 1923, and operated between Bishop, Mammoth Lake, Mono Lake and the intermediate points, a distance of 85 miles.

Defendants perform a common carrier trucking service under the name of the Smith Automobile Company, a copartnership consisting of U. G. Smith and I. S. Newlan, by authority of our Decision No. 12468 in Application No. 9223, dated August 11, 1923, and they operate between Bishop and Mammoth, Silver Lake and the intermediate points, a distance of 68 miles.

The complaint alleges that the defendants engaged in false advertising, performed through services in connection with a non-certificated or wildcat operator, have violated the terms of the certificate, leases trucks from a connecting carrier for

the movement of through tonnage, and fails to charge the tariff rates. The Commission is asked to order defendants to cease and desist from future operation and to award to complainants reasonable damages for losses incurred.

Public hearing was held before Examiner Geary at Bishop April 5, 1934, and the proceeding having been duly submitted is now ready for our opinion and order.

These two freight trucking operations are in direct competition with each other in much of the territory. The tonnage is of a seasonal nature, chiefly into the summer resort communities, with but little return freight.

Complainants subpoenaed some 44 witnesses but only 9 were called to testify under oath; their testimony was principally devoted to a description of the resorts, their exact locations, and acknowledging the use of the two truck lines, but it fell far short of sustaining any of the allegations of the complaint. In fact, the witnesses were not concerned and evidenced no personal interest in the controversy. Testimony by G. S. Alexander and L. B. Larson, the complainants, was all general in character and in legal material totally failed to prove the allegations of the complaint. Many of the alleged violations admittedly occurred, if at all, many years ago, and none was verified by valid testimony; therefore it would be idle to discuss them in detail.

This record does not prove violations of the statute or certificate either as a method of advertising, accepting tonnage from a connecting contract carrier, leasing of trucks or deviation from tariff rates. The proceeding will be dismissed.

ORDER

Public hearing having been had in the above entitled case,

IT IS HEREBY ORDERED that the above entitled complaint
be and the same is hereby dismissed.

Dated at San Francisco, California, this 30th day
of April, 1934.

Clarence
Leon White
M. A. Curran
M. B. Curran
W. H. Curran

Commissioners.