

Decision No. 27301

26993  
27301

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
U. C. EXPRESS AND STORAGE CO., a cor-  
poration, for a certificate of public  
convenience and necessity to operate  
an auto truck service for the trans-  
portation of household goods, furniture,  
pianos and personal effects, including  
trunks and baggage, between points with-  
in the State of California.

}  
Application No. 18655.  
}

W. H. Kessler, for applicant.

C. P. Von Herzen, for Certificated Carriers, Inc.  
and Argonne Van Lines.

CARR, Commissioner:

OPINION AND ORDER ON REHEARING

By Decision 26993, the Commission recognized that this applicant had certain prescriptive operative rights as far south as Gilroy on the coast route and as far south as Escalon on the valley route. There was no evidence to support or justify a finding as to public convenience and necessity for operations to Los Angeles and vicinity and the application was accordingly denied without prejudice.

A rehearing on the application was granted with the thought that possibly this applicant might, and in fairness should be given another opportunity to attempt to, bring himself within the precedent established in Re Carpenter, decided April 30, 1934 (Dec. 26992). However, on the rehearing no evidence of any consequence on public convenience and necessity was adduced.<sup>(1)</sup>

1. The only thing that might be termed new or additional evidence presented was a detailed statement of trips between the East Bay area and the Los Angeles area, including trips as far south as San Diego. The substance of this was before the Commission when the prior decision was made.

The evidence in Re Carpenter, supra, on public convenience and necessity was weak, but there the applicant presented some evidence upon which the statutory finding could be premised. Here the applicant apparently has relied upon the Carpenter precedent rather than attempting to make a real showing of convenience and necessity to support its application, which leaves the Commission no recourse but to affirm its prior conclusion and order and deny the application.

I recommend the following form of order:

O R D E R

Public hearing having been had on the rehearing granted herein and the matter being ready for decision,

IT IS HEREBY ORDERED that the prior decision of this Commission herein be affirmed and that the application be denied without prejudice.

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 27<sup>th</sup> day of August, 1934.

Leon Arthur  
W. J. Lee  
W. B. Lewis  
W. H. Moore  
Commissioners.