

Decision No. 28380

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
OVERLAND TRANSFER COMPANY, a co- )  
partnership, for a supplemental order )  
setting aside previous supplemental )  
order granting permission to file )  
rate tariffs and schedules. )  
Application No. 6671  
(Supplemental)

ORIGINAL

Edward M. Berol for the Applicant  
G. E. Duffy and Berne Levy for  
The A.T. & S.F. Ry Co., Protestant  
H. W. Hobbs for Southern Pacific Co.  
and Pacific Motor Transport Co.,  
Protestants  
L. N. Bradshaw, Attorney, The Western  
Pacific R. R. Co., Protestant  
Edward Stern for Railway Express  
Agency, Inc., Protestant  
McCutchen, Olney, Mannon & Greene,  
by J. P. Cooper, for The River  
Lines, Protestants.

BY THE COMMISSION:

O P I N I O N

Applicant, a co-partnership of H. A. Higdon and W. E. Sheets, herein seeks to have the order of the Commission (Decision No. 10743, dated July 20, 1922) set aside, and instant authority granted to applicant to establish truck operation for the transportation of property between Stockton and Oakland and to file new rates therefor.

A public hearing was conducted by Examiner Williams at San Francisco. At the hearing all protestants joined in a motion made by Mr. Hobbs, that the certificate heretofore

granted applicant by Decision No. 8829, and as modified by Decision No. 10743 herein, be revoked because of alleged admitted abandonment of the operating right by applicant. Applicant, thereupon, requested a continuance of the hearing for the purpose of meeting the motion and to amend the application for a certificate de novo. Accordingly the matter was reset for October 9, 1935, for further hearing, as amended.

On September 26, 1935, applicant notified the Commission that amendment would not be filed and "it accordingly may be stipulated that the application hereinbefore filed may be denied and the hearing set for October 9th may be stricken from the calendar."

The application for Supplemental Order was removed from the calendar. On November 6, 1935, applicant, by Harley A. Higdon one of the owners, filed written stipulation, in substance as above, and, in addition "a request" that the certificate of public convenience and necessity hereinbefore granted in the above numbered application may be revoked without prejudice to a new application."

The revocation of the rights, which have never been exercised in a period of fourteen years, is fully justified and an order accordingly will be entered, in addition to the denial of the supplementary application, and without prejudice to any application de novo for a certificate.

O R D E R

Harley A. Higdon and William H. Sheets, copartners under the fictitious name of Overland Transfer Company, having made supplementary application as above entitled, a public hearing having been held and applicants having stipulated denial of said application,

IT IS HEREBY ORDERED that said Supplemental Application be and the same hereby is denied without prejudice.

IT IS HEREBY FURTHER ORDERED, in accordance with written stipulation of applicants filed herein on November 6, 1935, the certificate heretofore granted by Decision No. 8829 herein, dated April 8, 1921, to applicants as the successors in interest of River Express Company, (Decision No. 6367 on Application No. 4597), be and the same hereby is revoked and annulled.

Dated at San Francisco, California, this 25<sup>th</sup> day of November, 1935.

John A. White

M. J. Lee

M. B. Gilman

Frank R. Brown  
Commissioners.