

Decision No. 23279

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Investigation on the Commission's own motion into the rates, rules, regulations, charges, classifications, practices, contracts, operations and schedules, or any of them, of BALIES G. WALKER operating service between points in the State of California.

Case No. 4170.

In the Matter of the Application of BALIES G. WALKER. Application for certificate of public convenience and necessity.

Application No. 9432.

H. W. Horton, by George R. Kirk, for Respondent.

BY THE COMMISSION:

O P I N I O N

By our proceeding instituted September 14, 1936, respondent herein, Balies G. Walker, was cited to appear and show cause why operative rights granted him by Decision No. 13311, dated March 24, 1924, should not be revoked and annulled for cause. On October 13, 1936, by supplementary order in Application No. 9432 the order of August 12, 1925, authorizing suspension of operating rights was revoked and applicant ordered to resume service by October 27, 1936, or show cause on that date why such service should not be resumed.

A public hearing thereon was conducted by Examiner W.R. Williams at El Centro, October 27, 1936.

The certificate involved authorized passenger auto-stage transportation between the west side of the bridge over the Colorado River, near Yuma, Arizona, and Andrade, a point on the border of the Republic of Mexico, opposite the Mexican town of Algodones, serving intermediately Winterhaven and Araz Junction. Applicant proposed to operate between Yuma and Algodones as an interstate operation and also as one engaged in commerce with a foreign nation, although the distance between termini is only twelve miles. When the certificate was granted Yuma was a labor reservoir for the cotton planters south of the Mexican border, where 150,000 acres were growing, and the shops and headquarters of the Imperial Irrigation District were at Andrade, north of the Mexican border.

Service was established by applicant as required. Almost simultaneously others began similar operations between Yuma and Algodones but performed no intrastate business in California. In an effort to stop them Walker filed complaint before this Commission against Virgil N. Sams seeking an order requiring Sams to cease and desist such operation. ⁽¹⁾ Because of United States Supreme Court decisions, ⁽²⁾ during the pending of this complaint, divesting states of any power to regulate interstate movements for the transportation of persons or property by automotive vehicles on highways, the complaint was dismissed, except with the reservation of police power as to safety, etc., as provided in Section 9, Chapter 213, Acts of 1917, as amended.

Soon thereafter Walker was authorized by Decision No.15281

(1) Walker v. Sams, 27 C.R.C. 868.

(2) Buck v. Kuykendall, 267 U. S. 305 and
Bush v. Maloy, 267 U. S., 317.

on Application (supplementary) 9432 to suspend operations "until further order of this Commission." Suspension was made and no service since that date (August 12, 1925) has been given.

By case No. 3132, instituted by this Commission October 19, 1931, Walker was cited to show cause why the certificate should not be revoked for cause. His response was that whenever Congress enacted laws regulating and protecting interstate automotive operations he would resume service. This case was dismissed.

The instant proceeding was instituted to revoke the right granted in 1924 and dormant since 1925 or to require Walker to exercise it fully, now that Congress has enacted laws regulating interstate traffic by automobile. At the hearing Walker, through his counsel, advised the Commission that he has "no means to resume service" and that he had "no other response to make."

Under the record the duty of the Commission is to revoke the certificate. An order accordingly will be entered.

O R D E R

Balies G. Walker, respondent herein, having been cited to appear and show cause why (1) he should not resume auto stage operations between Yuma Bridge and Andrade, California, as required by certificate granted by Decision No. 13311 on Application No. 9432, and (2) why his certificate therefor should not be revoked for cause, and having failed to restore said service or to provide for its restoration, or to show cause why his certificate therefor should not be revoked for cause,

IT IS HEREBY ORDERED that the certificate heretofore granted said Balies G. Walker by said Decision No. 13311 on application No. 9432 be, and the same hereby is, revoked and annulled and all tariffs

and time schedules filed thereunder be and the same hereby are cancelled and annulled.

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 16th day of November, 1936.

M. B. Harris
Leon O'Whalley
W. J. Chen
Walter [unclear]
Frank [unclear]
Commissioners.