

Decision No. 30002.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PAUL R. KEMP and JACK B. KEMP, co-partners doing business under the fictitious name and style of CALIFORNIA DELIVERY SERVICE, for relief from observance of minimum rates established by Decision No. 28761 as supplemented by Decision No. 28831 and as established by Decision No. 29480 as amended by Decision No. 29592.

ORIGINAL

Application No. 21195

Faries and McDowell, by McIntyre Faries, for applicants.
E. J. Bischoff, for Southern California Freight Lines
and Southern California Freight Forwarders, protestants.
Hugh Gordon, for United Parcel Service, Inc., protestant.

BY THE COMMISSION:

O P I N I O N

Applicants Paul R. Kemp and Jack B. Kemp are copartners engaged in the transportation of property under the fictitious name and style of California Delivery Service. ¹ They seek to be relieved from

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Applicants conduct a parcel delivery service from Los Angeles to nearby cities and towns. Their status as a carrier was before the Commission in Application No. 19837, In the Matter of the Application of Paul R. Kemp and Jack R. Kemp, copartners doing business under the fictitious name and style of California Delivery Service, for a certificate of public convenience and necessity to operate a motorcycle delivery service between Los Angeles and nearby cities. By Decision No. 29917 dated July 1, 1937, applicants were authorized to conduct an automotive service by motorcycle for the transportation of automobile accessories, parts and supplies, automobile mechanics' tools, and machinery and machines and parts commonly used in the repair and maintenance of motor vehicles and automotive equipment. They sought this certificate following the issuance of Decision No. 27688 of January 21, 1936, in Case No. 3867, wherein they were ordered to cease and desist from continuing certain operations with the proviso that the order would stand suspended, should a proper application for a certificate be filed within 30 days from the date thereof.

the observance of the minimum rates prescribed in and by Decision No. 29480 and as amended in Cases Nos. 4088 Part "M" and 4145 Part "B",² and to be authorized to observe as minimum rates in lieu thereof either the rates of Railway Express Agency, Inc., United Parcel Service, Inc., or Louis M. Goodman doing business as Goodman Delivery Service and 20th Century Delivery Service; or a schedule of rates set forth in the application.

A public hearing was held at Los Angeles on June 3, 1937, before Examiner Mulgrew.

During the course of the hearing applicants withdrew the rate schedule contained in their application as an alternative proposal. They also modified the request for relief from observance of the minimum rates heretofore established in Cases Nos. 4088 "M" and 4145 "B", supra, by stating that it is the purpose of this application to secure for the applicants only such authority as is necessary to bring about equality of rates. It is urged that applicants' operations are substantially the same as those conducted by the carriers whose rates they are here seeking authority to meet and that therefore they should not be precluded from rendering services similar to those of their competitors at an equality of rates.

No one opposed applicants being granted authority to meet the rates of competing carriers engaged in rendering parcel delivery service.

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Part "M" of Case No. 4088, In the Matter of the Establishment of maximum or minimum or maximum and minimum rates, rules and regulations of all radial highway common carriers and highway contract carriers operating motor vehicles over the public highways of the State of California, etc., and Part "B" of Case No. 4145, In the Matter of the Investigation and Establishment of rates, charges, classifications, rules, regulations, contracts and practices, or any thereof, of common carriers of property had to do with the transportation of property between points in southern California within the general territory from San Fernando and Burbank on the north to San Diego and San Ysidro on the south and from the Pacific Ocean on the west to Redlands, Yucaipa, Hemet Valley and Escondido on the east.

By Decision No. 29592 of March 8, 1937, modifying Decision No. 29480 of January 25, 1937, certain parcel delivery carriers, namely, United Parcel Service, Inc., and Louis M. Goodman doing business as Goodman Delivery Service and 20th Century Delivery Service, were exempted from the minimum rates established in Cases Nos. 4088 "A" and 4145 "B", supra.

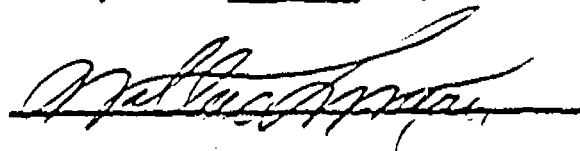
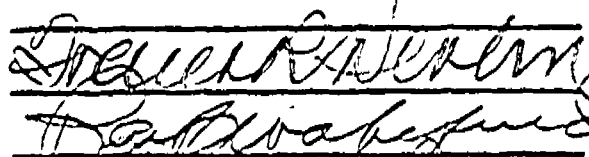

Decision No. 29662 of April 30, 1937 (First Supplemental Order) in the same phases of these proceedings provides: "in the event the application of the common carrier intrastate rates, rules and regulations lawfully in effect on the day this order becomes effective for the same transportation of the same shipment of property from and to the same points results in a lower aggregate charge than the charge resulting from the application of the rates provided in Decision No. 29480, as amended, such lower charge shall apply." This provision became effective April 12, 1937. Since that date the tariff rates of the exempted parcel delivery carriers on file with the Commission have not been changed. Accordingly it appears that the established minimum rates from which applicants seek relief herein are in fact the rates which they request permission to observe and that therefore the application should be dismissed.

O R D E R

The matter having been duly heard and submitted,

IT IS HEREBY ORDERED that Application No. 21195 be and it is hereby dismissed.

Dated at San Francisco, California, this 9th day of August, 1937.




Commissioners