

Decision No. 32940.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
C. K. Willis, doing business as Western
Livestock Shippers, for a certificate
of public convenience and necessity to
operate the cattle trucking service as
a common carrier between Los Angeles and
other points in the State of California.

Application No. 22207.

ORIGINAL

Don Petty, for Applicant
Phil Jacobson, for Cantlay & Tanzola
Garibaldi Bros., interested parties
Edward Stern, for Railway Express Agency, Inc.
E. T. Lucey, for The Atchison, Topeka and
Santa Fe Railway Company

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

C. K. Willis, doing business as Western Livestock Shippers, filed the above entitled application on September 3, 1938, requesting a certificate of public convenience and necessity to operate as a highway common carrier, as defined by Section 2-3/4 of the Public Utilities Act, for the transportation of livestock between the Los Angeles metropolitan area, on the one hand, and all points in thirty-three counties, on the other hand, and intermediate points. The operations would embrace that portion of the State of California extending from Marysville and Truckee on the north to the Mexican border on the south. This application, together with fourteen other applications seeking livestock certificates, was heard on a consolidated record and submitted on March 17, 1939.

This application was filed by C. K. Willis, as a result of Case No. 4305, dated March 28, 1938, which was an investigation upon the Commission's own motion into the operations of five truck car-

riers (including C. K. Willis), engaged in the transportation of livestock, and for the particular purpose of determining whether or not any or all of said respondents were operating as Highway Common Carriers without a certificate of public convenience and necessity issued by this Commission.

The Commission issued its Decision No. 32673, dated December 19, 1939, on all fifteen applications, in which it stated - "Subsequent to submission of these matters, a review of the Commission's records indicated that C. K. Willis, doing business as Western Livestock Shippers, has been transporting property for compensation over the public highways of California without a permit or other authorization issued by this Commission. Due to this circumstance, it would appear desirable to set aside submission in Application No. 22207 and reopen the matter for further hearing."

In said decision the Commission ordered that submission in Application No. 22207 be set aside and the matter reopened for further hearing. A further public hearing was held before Examiner Gorman on February 8, 1940, at Los Angeles, at which time the matter was duly submitted.

The evidence introduced at the hearing on the reopened application shows that applicant, during a major portion of 1939, operated a transportation service for compensation, over the public highways of California, without having secured a permit to operate as a highway carrier or any other authority from this Commission so to do. Applicant testified that he was having financial difficulty in 1939 and, as a result thereof, he attempted to withdraw from the business; however, he admitted on cross-examination that he knowingly and wilfully operated in violation of law. His only excuse for operating in contravention of law was that he was attempting to withdraw from the transportation business in a "graceful manner."

The record further shows that applicant is now out of business and that all of his equipment has been sold or is about to be

sold by his mother in order to meet, in part, his past obligations. Applicant further testified that at the present time he is without assets of any kind; however, he could arrange to borrow \$5,000 at 6% interest for five years from Mrs. Catherine Hoover, who formerly was in the trucking business.

After carefully considering all of the evidence in this proceeding, we are of the opinion and hereby conclude that applicant should not be granted a certificate of public convenience and necessity to conduct the operations proposed and that the application should be denied.

O R D E R

The above entitled application having been filed and the Commission being fully apprised of the facts; therefore

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby denied.

The effective date of this application shall be twenty (20) days from and after the date hereof.

Dated at ~~San Francisco~~ ^{Los Angeles}, California, this 26th day of March, 1940.

Ray L. King
James D. King
Frank W. King
M. H. King
Justin S. Cameron
Commissioners.