

Decision No. 23215

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HASLETT WAREHOUSE COMPANY, a corporation, and PEOPLES EXPRESS COMPANY, a corporation, for an order authorizing the former to sell and convey to the latter the right to operate as a highway common carrier between San Francisco and points on the east side of San Francisco Bay.

ORIGINAL

Supplemental Application No. 23215

BY THE COMMISSION:

SUPPLEMENTAL OPINION

This joint supplemental application of Haslett Warehouse Company and Peoples Express Company seeks an order from this Commission authorizing applicant Haslett to lease automotive equipment to applicant Peoples upon the basis of ten (10) cents per hundred pounds of freight actually transported by Peoples on said leased equipment rather than upon a specified amount on a trip, term or mileage basis as required by section 5.012, Part V of General Order No. 93-A.<sup>(1)</sup>

As justification for the granting of the exemption authority herein sought, applicants allege substantially as follows:

(1) Section 5.012 provides in part:

"5.012. Except for such equipment leased in an emergency by a passenger stage corporation or highway common carrier for a period of ten (10) consecutive days or less, the practice of leasing the equipment or employing drivers or operators on a basis of compensation dependent upon receipts per trip, or per period of time, or per unit of weight of property transported, is hereby prohibited...." (Emphasis supplied)

Peoples, a highway common carrier, is a wholly owned subsidiary of Haslett, an express corporation. Both companies operate between San Francisco and certain East Bay points. At times, particularly during peak traffic periods, it is necessary for applicant Peoples to lease additional equipment. Applicant Haslett has equipment available for lease and the parties are desirous of effecting leasing arrangements upon the unit of weight arrangement hereinabove mentioned. It is contended that this method of leasing would be more convenient and economical as the rentals paid could be ascertained from the freight manifests or invoices of applicant Peoples, whereas any other basis would require the keeping of separate records. Furthermore, every other aspect of the two businesses is conducted upon a joint basis, including the joint use of employees. Applicants also state that so long as the identity of the separate operations is maintained with respect to actual service to the public, no adverse effect will result thereto by reason of the change herein contemplated.

In passing upon requests of this kind, it is to be borne in mind that the practice of equipment leasing herein sought to be established runs counter to a basic principle of operation long required of certificated carriers by the Commission in that it tends to relieve such carriers from operative responsibilities assumed by them with their entrance into the automotive common carrier field and which have, subsequently, proved burdensome and less desirable, albeit not to a degree necessitating or warranting relief by either abandonment or restriction of operations. Equipment leasing upon a trip, term or mileage basis, on the other hand, places the full operative burden of a service upon the actual certificate holder where it rightfully belongs and where a long line of Commission decisions have consistently placed it.

To permit the type of lease herein proposed, even where the relationship of the parties is as close as here appears, would not be consistent with long-established Commission policy in this respect and it further is not evidenced that the economies expected to accrue would be passed on to the public and thus possibly react to its benefit.

Rather, it appears that the proposal is one of particular benefit to the carriers alone and will have no substantial or beneficial effect upon the public interest. Furthermore, a fundamental obligation of a highway common carrier is that it possess or provide sufficient equipment to adequately satisfy public demand for its services, including emergency and peak requirements. The Commission, by its general order permitting leasing of equipment, has provided a practical means of satisfying such demand without imposing upon the carrier the burden of continuous maintenance cost, including actual ownership expense of automotive equipment needed only on occasion. In complying with these leasing provisions as thus established it does not appear that any undue burden has been or is placed upon any carrier.

Applicants, in our opinion, have failed to justify a departure, in their favor, from the prescribed rules of this Commission relating to the leasing of equipment by certificated automotive carriers.

This appears to be a matter in which a public hearing is not necessary. The application will be denied.

O R D E R

IT IS ORDERED that the application of Haslett Warehouse Company and Peoples Express Company for exemption from section 5.012, Part V of General Order No. 93-A relating to and providing for the leasing of automotive equipment used or useful in their highway common carrier operations, be and it hereby is denied.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of March, 1941.

[Signature]

[Signature]

Justin J. Cramer

Francis R. Haveman

COMMISSIONERS