

ORIGINAL

Decision No. 39959

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on
the Commission's own motion into the
operations, rates, charges, contracts
and practices of CLARENCE H. HAGSTROM,
doing business as Express Freight Lines.)

Case No. 4830

F. W. Turcotte, for Respondent.

H. P. Merry and W. A. Steiger, for Southern
California Freight Lines and Southern
California Freight Forwarders.

William F. Brooks, for The Atchison, Topeka
and Santa Fe Railway Company.

Wallace K. Downey, for Pacific Freight Lines
and Pacific Freight Lines Express.

O P I N I O N

This proceeding was instituted by the Commission on its own motion for the purpose of determining whether or not respondent had been engaged in transportation of property as a highway common carrier without a certificate, as required by Section 50-3/4 of the Public Utilities Act, between Los Angeles and points in the vicinity thereof, on the one hand, and San Diego and points in the vicinity thereof, on the other hand. A public hearing was held at Los Angeles on November 21, 1946, at which evidence was presented. The case was then adjourned to February 6, 1947, at which time the matter was submitted for decision. It was conceded that the respondent, operating under permits issued by the Commission, does not possess a certificate of public convenience and necessity authorizing operations as a highway common carrier.

At the November hearing, fifteen witnesses, representing various wholesale and distributing firms in the Los Angeles area, testified concerning transportation service performed for their

respective firms by respondent, over periods ranging from a few months to two or three years. ⁽¹⁾

It was established through the testimony of these witnesses that respondent arranged to call daily in some cases for the purpose of picking up shipments in Los Angeles territory destined to San Diego territory. In other cases, such pick-ups were made two or three times a week, depending upon the needs of the customers served. Such shipments constituted anywhere from a small percentage to as much as 90 per cent of the prepaid highway freight of the various patrons served. Respondent, it appears from the testimony, did not refuse to handle any shipments tendered for transportation, except that on occasions delays were encountered in the picking up of large shipments. The witnesses also testified that no written contracts were executed with respondent covering the transportation service performed by him, but that such service was to be utilized as long as it continued to be satisfactory.

A witness representing the Commission's Field Division presented an exhibit containing a record of shipments transported by the respondent during four 6-day periods ranging from April 1, 1946, to June 22, 1946. This exhibit was designed to portray the number of shipments moving both north and southbound between Los Angeles and San Diego territory during the periods selected, and shows the names of the shippers paying freight charges for such transportation, the commodities transported, and the weight of the shipments.

(1) Shippers represented by the witnesses handled a variety of commodities, including steel products, tires, batteries, hardware supplies, machine parts, electrical supplies, automatic water heaters, chemical solutions and aircraft tools and equipment.

The exhibit shows that, during the period from April 1-6, 1946, respondent transported a total of 139 shipments weighing 170,727 pounds, from Los Angeles points to San Diego points, and a total of 38 shipments weighing 55,930 pounds moving in the reverse direction, serving 78 shippers. During the period from April 22-27, 1946, respondent transported 209 shipments southbound from Los Angeles to San Diego points, which shipments weighed 215,871 pounds; and 23 shipments weighing 73,145 pounds from San Diego points to Los Angeles territory, serving 88 shippers. From June 10-15, 1946; it was shown by this exhibit that respondent served 78 shippers having 172 shipments weighing 259,712 pounds moving from Los Angeles to San Diego, and 36 shipments weighing 55,831 pounds moving in the opposite direction. During the last period covered by the Exhibit, June 17-22, 1946, it was shown that 152 shipments weighing 186,396 pounds were handled from Los Angeles territory to San Diego territory, and 31 shipments weighing 101,115 pounds were transported in the reverse direction, for a total of 68 shippers.

Respondent offered no testimony at either hearing, nor were any witnesses called in his behalf.

Under the facts disclosed by this record, we find that respondent has been operating as a highway common carrier in violation of Section 50-3/4 of the Public Utilities Act, in that prior to commencing said service, he had not secured from the Commission a certificate of public convenience and necessity, as required by said Act. Therefore, respondent will be directed to cease and desist from conducting such operations.

O R D E R

Investigation having been undertaken in the above entitled proceeding, public hearings having been held, and the Commission being now fully advised,

IT IS ORDERED that

(1) Respondent, Clarence H. Hagstrom be and he is hereby

required to cease and desist and hereafter refrain from conducting, directly or indirectly, or by any subterfuge or device, any operation as a highway common carrier, as defined by Section 2-3/4 of the Public Utilities Act, over the public highways between Los Angeles territory, including Los Angeles, Hollywood, Vernon, Burbank, Compton and Lawndale, on the one hand, and San Diego territory including San Diego, National City, Chula Vista, Coronado, La Mesa, La Jolla, Mission Beach, Pacific Beach, Palm City, Point Loma and Lemon Grove, on the other hand, and between any of said points on the one hand and any other of said points, on the other hand, unless and until he shall have obtained from the Commission a certificate of public convenience and necessity under the provisions of Section 50-3/4 of the Public Utilities Act authorizing such operation.

(2) That the Secretary of the Commission shall cause a certified copy of this decision to be served personally on respondent Clarence H. Hagstrom, and shall cause certified copies thereof to be mailed to the District Attorneys of the Counties of Los Angeles and San Diego, and to the Department of Motor Vehicles and to the California Highway Patrol, at Sacramento.

The effective date of this Order shall be twenty (20) days after service thereof upon Respondent.

Dated at San Francisco, California, this 11th day of February, 1947.

Harold P. Kula

Justice F. Crocker

James P. Powell

C. F. ...

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COMMISSIONERS