

ORIGINAL

Decision No. 41491

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of LAWRENCE KENNEDY, trustee of the Estate of HARRY WELBER HENDRIX, a bankrupt, to sell and convey and of COAST LINE TRUCK SERVICE, INC., to purchase and acquire the certificate of public convenience and necessity herein described. | } |                       |
|  | } | Application No. 28483 |

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| Investigation of highway common carrier operations of H. W. HENDRIX, and of LAWRENCE KENNEDY, trustee in bankruptcy of HARRY WELBER HENDRIX, between Los Angeles and certain Imperial Valley points. | } |               |
|  | } | Case No. 4910 |

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| In the Matter of the Application of HENDRIX TRUCK COMPANY, for a certificate of public convenience and necessity. Petition of SOUTHERN CALIFORNIA FREIGHT LINES and PACIFIC FREIGHT LINES for revocation of certificate of public convenience and necessity granted by Decision No. 30498. | } |                                   |
|  | } | Petition in Application No. 20725 |

Reginald L. Vaughan and Varnum Paul, by Varnum Paul, for applicants in Application No. 28483; Gordon & Knapp, by Wyman Knapp, for Pacific Freight Lines and Pacific Freight Lines Express; H. J. Bischoff, for Southern California Freight Lines and Southern California Freight Forwarders, protestants in Application No. 28483 and interested parties in Case No. 4910.

OPINION ON REHEARING

Decision No. 41148, dated January 19, 1948, resulted from hearings on the above matters held on October 29, 1947, and December 1, 1947. This decision denied Application No. 28483, dismissed the petition in Application No. 20725, and revoked and annulled the

certificate of convenience and necessity heretofore held by H. W.  
(1)  
Hendrix.

On February 7, 1948, a petition for rehearing was filed by Coast Line Truck Service, Inc., and Lawrence Kennedy, trustee of the Estate of Harry Welber Hendrix. This petition was granted and a rehearing was held on March 31, 1948, before Commissioner Potter and Examiner Syphers. The matter was submitted and is now ready for decision.

At the rehearing, evidence was presented indicating that H. W. Hendrix had maintained permanent terminals at Brawley and El Centro until he went into bankruptcy in 1946. Also, temporary terminals were set up at such points as Westmoreland and Holtville "as needed". As to the amount of hauling performed, the evidence presented at the rehearing merely reiterated the evidence presented at the previous hearings.

The basic question here involved is whether or not the activities, or lack of activities, of H. W. Hendrix have been such as to constitute an abandonment of the operative rights under the certificate of convenience and necessity which was transferred to Hendrix by Decision No. 34787. We decide this question on all of the evidence presented in the original hearings and the rehearing, giving effect to the briefs and arguments of counsel. Upon full consideration we cannot but reaffirm the findings and Order in Decision No. 41148.

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(1) This certificate of convenience and necessity was granted in Decision No. 30498, dated January 3, 1938, in Application No. 20725, and was subsequently transferred to H. W. Hendrix by Decision No. 34787, dated November 25, 1941, in Application No. 24553.

O R D E R

Public hearings and rehearing having been held in the above-entitled proceeding, evidence having been presented, the matter having been duly submitted and the Commission being fully advised in the premises,

IT IS ORDERED that Decision No. 41148, dated January 19, 1948, is hereby reaffirmed.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of April, 1948.

R. J. [Signature]  
Justice F. Callahan  
Dean H. [Signature]  
[Signature]  
COMMISSIONERS