

Decision No. 20204

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations and)
practices of GEORGE C. WIEDEMAN and)
FERN P. WIEDEMAN, doing business as)
BROOMCRIST AND WIEDEMAN.)

Case No. 5132

F. W. Turcotte and Jack Oliver Goldsmith for respondent.
Glanz & Russell by Arthur H. Glanz and R. M. Bolton for L. L.
Mockenhaupt doing business as Victorville-Barstow Truck Lines,
interested party in support of the investigation and of the order
of investigation. Oscar Goldberg for Southern California Freight
Lines and Southern California Freight Forwarders, Joe West for
Needles Trucking Service, interested parties. H. F. Wiggins for
Field Division, Public Utilities Commission of the State of
California.

O P I N I O N

The purpose of this proceeding, which is an investigation
instituted on the Commission's own motion, is to determine:

(1) Whether George C. Wiedeman and Fern P. Wiedeman, doing
business as Broomcrist and Wiedeman, hereinafter called respondents,
have operated or are operating as a highway common carrier, as
defined in Section 2 3/4 of the Public Utilities Act, within the
State of California, without having obtained a certificate of public
convenience and necessity or having possessed or acquired a prior
right so to operate, as required by Section 50 3/4 of said Act;

(2) Whether respondents should be ordered to cease and desist
from operating as a highway common carrier until they shall obtain
authority so to do; and

(3) Whether the permitted rights, or any of them, held by respondents should be cancelled, revoked, or suspended.

Public hearings were held before Examiner Rowe, at San Bernardino, on January 10, 11, and 18, 1950, and oral and documentary evidence was adduced, and the matter was submitted for decision.

Mrs. Phoebe Broomcrist, a former partner, is deceased, and the permits are presently held by George C. Wiedeman and Fern P. Wiedeman. These permits, as alleged in the Order Instituting Investigation, are Radial Highway Common Carrier Permit No. 36-1502 and Highway Contract Carrier Permit No. 36-1503, issued by this Commission. Respondents do not have any authority to operate as a highway common carrier, as defined in the Public Utilities Act.

Evidence was presented by an employee of the Commission's field division concerning the results of an inspection of respondent's records and interviews with one of the respondents and with their office manager, who supervises their truck operations. According to stipulation, respondents have, for several years, regularly operated auto truck and other self-propelled vehicles between fixed termini and over regular routes as designated by respondents, to wit:

Route No. 3

Between Los Angeles and San Bernardino, and points via U. S. Highways Nos. 66 and 99;

Route No. 9

Between San Bernardino and Banning, Whitewater, Palm Springs, Indio, Coachella, Thermal, Mecca, and Cathedral City, via U. S. Highway No. 99 and State Highway No. 111;

Route No. 14

Between San Bernardino and Banning, Whitewater, Palm Springs, Indio, Desert Center, Rice, Vidal, Earp, and Parker Dam via U. S. Highways Nos. 60, 70, 95, 99, and State Highway No. 111, and other public highways not numbered;

Route No. 15

Between San Bernardino and Banning, Whitewater, Palm Springs, Indio, Desert Center, Blythe, Ripley, and Palo Verde, via U. S. Highways Nos. 60, 70, 99, and State Highway No. 111, and other public highways not numbered;

Route No. 16

Between San Bernardino and Cajon, Adelanto, Kramer, Atolia, Red Mountain, Johannesburg, Randsburg, West End, and Trona, via U. S. Highways Nos. 66, 395, 466, and other public highways not numbered;

Route No. 17

Between San Bernardino and Cajon, Victorville, Oro Grande, Hodge, Barstow, Newberry, Ludlow, Bagdad, Amboy, Cadiz, Danby, Essex, Mountain Springs, and Needles, via U. S. Highway No. 66 and other public highways not numbered;

Route No. 18

Between San Bernardino, Cajon, Victorville, Oro Grande, Hodge, Barstow, Yermo, and Baker, via U. S. Highways Nos. 66, 91, and 466;

Route No. 20

Between San Bernardino, Cajon, Victorville, Oro Grande, Lenwood, Barstow, Hinkley, Daggett, and Yermo, via U. S. Highways Nos. 66, 466, and other public highways not numbered; and

Route No. 21

Between San Bernardino, Cajon, Adelanto, Kramer, Beechers 4 Corners, Atolia, Inyokern, and Ridgecrest, via U. S. Highways Nos. 66, 395, and other public highways not numbered.

Over most of these routes respondents operate every Tuesday and Friday. Route No. 3, which respondents call their shuttle route, is served almost daily, while Routes Nos. 9, 16, and 20 are served Tuesday, Thursday, and Friday of each week. Over these routes respondents make deliveries of their own produce to their customers. In addition, they reported a transportation for-hire yearly gross income from 1945 through the third quarter of 1949 ranging from \$15,616.65 to \$20,222.45. The first three quarters of 1949 produced an income of \$15,878.29.

During 1949, respondents operated 27 power vehicles and 12 trailers. Several summaries of common carrier operations were filed as exhibits covering test periods. One such exhibit was No. 3 covering the period of December 1 to 10, 1948. Listed on this document, which appears to be typical of respondent's carrier business, were 74 parties paying freight charges and 75 who engaged the carrier's services for a wide variety of types of freight. Shipments varied in weight from three to 11,599 pounds. No written contracts have been entered into with any of the shippers and respondents.

Twelve witnesses testified as to their dealings with respondents. These gentlemen, representing shippers from San Bernardino or nearby territory, praised the services of Broomcris and Wiedeman as freight carriers. All testified that at no time had offered shipments been refused. Except for shippers of meat, all agreed that their shipments entailed no special equipment or unusual handling. All were agreed that the carrier service was efficient, prompt, and regular. Some testified to special attention such as deliveries before working hours where respondents had been

entrusted with and used customers' keys. Many of the deliveries were to remote spots where no other highway carrier rendered any service.

Respondents offered no evidence. In view of the frequency and regularity of respondent's operations and the volume and diversity of the shipments to and from numerous consignees and shippers over well-defined routes, it is obvious, and the Commission finds as a fact, that George C. Wiedeman and Fern P. Wiedeman, doing business as Broomerist and Wiedeman, have operated and are operating auto trucks as a highway common carrier of freight over the regular routes and between the fixed termini, hereinbefore described, within the State of California, without having obtained a certificate of public convenience and necessity and without possessing or having acquired any prior right so to operate, as required by Section 50 3/4 of the Public Utilities Act (California Statutes 1915, Chapter 91, as amended).

The only freight carried by respondents for others has been over the routes above enumerated. The operation between San Bernardino and Los Angeles as a carrier for others has been abandoned and respondents have indicated their intention not to resume this service. The service into Blythe has been found, in the proceeding on Application No. 30879, not to have been required by public convenience and necessity nor has the service into the Indio desert area, except as to freight requiring refrigeration. In a decision this day rendered in said Application No. 30879, a certificate has been granted to respondents authorizing operations of a highway common carrier over the above-described routes, except as

hereinabove indicated that public convenience and necessity do not justify it. Respondents, therefore, have no further requirements for their radial highway common carrier and their contract highway carrier permits. Radial Highway Common Carrier Permit No. 36-1502 and Highway Contract Carrier Permit No. 36-1503 will, therefore, be revoked. The order herein will, however, contain a proviso permitting operations under the above-mentioned certificate. ✓

An order will issue directing George C. Wiedeman and Fern P. Wiedeman, doing business as Broomcrist and Wiedeman, to cease and desist from such operations until they have obtained and accepted the certificate of public convenience and necessity therefor, in the proceeding in Application No. 30879.

O R D E R

Public hearings having been had in the above-entitled proceeding, evidence having been received and duly considered, the Commission now being fully advised and basing its order upon the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

(1) That George C. Wiedeman and Fern P. Wiedeman, individually and as partners, doing business as Broomcrist and Wiedeman, be, and each of them hereby is, directed and required to cease and desist and hereafter refrain from conducting, directly or indirectly, or by subterfuge or device, any operation as a highway common carrier (as defined in Section 2-3/4 of the Public Utilities Act),

for compensation, over the public highways of the State of California between any point or place in the city of San Bernardino, on the one hand, and any point or place located on any of the nine routes described and referred to in the foregoing opinion, on the other hand, unless and until, and to the extent, they shall have obtained from this Commission a certificate of public convenience and necessity authorizing such operations; provided, however, that nothing contained herein nor in the succeeding paragraph numbered (2) shall require the respondents to cease and desist from any operation authorized in Application No. 30879 and conducted after the acceptance by respondents of the certificate granted therein.

(2) That Radial Highway Common Carrier Permit No. 36-1502 and Highway Contract Carrier Permit No. 36-1503, heretofore granted to George C. Wiedeman and Fern P. Wiedeman, doing business as Broomcrist and Wiedeman, be, and they hereby are, revoked.

The Secretary of the Commission is directed to cause a certified copy of this decision to be served personally upon the respondents, George C. Wiedeman and Fern P. Wiedeman.

The effective date of this order shall be twenty (20) days after the date of such service.

Dated at San Francisco, California, this 23rd day of May, 1950.

R. E. Anderson
Justice J. Calver
Ernest Powell
Harold H. Hills

COMMISSIONERS

Commissioner Kenneth Potter being necessarily absent, did not participate in the disposition of this proceeding.