

ORIGINAL

Decision No. 46066

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Investigation into the)
operations and practices of MABEL) Case No. 5228
R. GLASS, doing business as GLASS)
TRANSPORTATION COMPANY.)

Wilson Cline, for Field Division, Public Utilities
Commission.

Lawton D. Champion by Thomas D. Quinn, for respondent.

O P I N I O N

This proceeding is an investigation instituted upon the Commission's own motion into the operations and practices of Mabel R. Glass, doing business as Glass Transportation Company, hereinafter referred to as respondent, to determine :

1. whether respondent has operated, or is operating as a highway common carrier without prior authority, in violation of Section 50-3/4 of the Public Utilities Act;
2. whether respondent should be ordered to cease and desist from operating as a highway common carrier;
3. whether respondent's permitted rights, or any of them, should be cancelled, revoked or suspended.

Public hearings were held in San Francisco on December 8, 1950, and in Paso Robles on January 25, 1951, before Examiner Gillard and the matter submitted for decision.

Respondent obtained a radial highway common carrier permit on February 13, 1937, and a highway contract carrier permit on January 13, 1937, and has been operating as a highway carrier ever since that time. She has never possessed any certificated or prescriptive highway common carrier rights.

A representative of the Commission's Field Division testified that he visited respondent at her office in Paso Robles on October 18, 1949, and on October 5, 1950. On each occasion he requested and was permitted to examine respondent's records and freight bills, and also at those times he had conversations with respondent concerning her transportation business. Exhibits 1, 2 and 3 were introduced into evidence herein through the testimony of this witness.

Exhibit 1 is a printed card which respondent told the Field Division representative she distributed among her customers. It is headed "Glass Transportation Co.", contains San Francisco and Paso Robles addresses and telephone numbers, and specifies that truck service is rendered overnight from the Bay Area (San Francisco and Berkeley on the north to San Jose on the south) to San Lucas, San Ardo, Bradley, San Miguel, Paso Robles, Templeton, Atascadero and Santa Margarita. These points are listed in geographical order from north to south.

Exhibit 2 summarizes the highway carrier operations of respondent for three periods in 1949 (August 21 to 30, September 11 to 20, and October 1 to 10) covering a total of 24 working days. A total of 289 shipments were transported for 90 different persons. The latter figure is computed after elimination of all duplications. Of the total of 90 persons served, 70 engaged the services of respondent, while the rest were other persons who prepaid the freight or were collect consignees. All but four of the 70 persons engaging respondent's services lived in Paso Robles and points nearby.

These shipments are tabulated in the following summary:

| <u>From</u> | <u>To</u> | <u>No. of Shipments</u> | <u>No. of Days Served</u> |
|---------------|-----------------|-------------------------|---------------------------|
| Richmond | Paso Robles | 1 | 1 |
| Berkeley | Templeton | 5 | 5 |
| " | Paso Robles | 2 | 1 |
| Oakland | San Luis Obispo | 1 | 1 |
| " | Templeton | 1 | 1 |
| " | Paso Robles | 41 | 19 |
| " | San Miguel | 3 | 3 |
| " | Atascadero | 1 | 1 |
| San Leandro | Paso Robles | 2 | 2 |
| Newark | " " | 1 | 1 |
| San Francisco | Salinas | 1 | 1 |
| " " | Atascadero | 14 | 11 |
| " " | Templeton | 5 | 4 |
| " " | Paso Robles | 118 | 20 |
| " " | San Miguel | 5 | 4 |
| " " | Bradley | 1 | 1 |
| Redwood City | Paso Robles | 1 | 1 |
| Palo Alto | " " | 1 | 1 |
| San Jose | " " | 29 | 15 |
| " " | Atascadero | 4 | 3 |
| " " | Templeton | 3 | 3 |
| Gilroy | Paso Robles | 1 | 1 |
| Salinas | " " | 11 | 7 |
| " | San Miguel | 2 | 2 |
| San Miguel | San Francisco | 1 | 1 |
| " " | Oakland | 4 | 4 |
| " " | Berkeley | 1 | 1 |
| Paso Robles | Richmond | 1 | 1 |
| " " | San Francisco | 10 | 8 |
| " " | Berkeley | 2 | 1 |
| " " | Oakland | 5 | 5 |
| " " | Emeryville | 1 | 1 |
| " " | San Jose | 1 | 1 |
| " " | Los Gatos | 2 | 2 |
| " " | King City | 5 | 5 |
| Templeton | Berkeley | 1 | 1 |

Exhibit 3 summarizes the highway carrier operations of respondent, as disclosed by her freight bills, for the period September 11 to 20, 1950. Eight working days are covered by this exhibit. During this time, 176 shipments were transported for 72 different persons. Of these 72 persons, 56 engaged respondent's services, and the rest were other persons who prepaid the freight or were collect consignees. All but one of the 56 persons engaging respondent's services lived in Paso Robles and adjacent cities.

These shipments are tabulated in the following summary:

| <u>From</u> | <u>To</u> | <u>No. of Shipments</u> | <u>No. of Days Served</u> |
|---------------|-------------------|-------------------------|---------------------------|
| Berkeley | Templeton | 3 | 2 |
| " | Paso Robles | 3 | 2 |
| Emeryville | Atascadero | 1 | 1 |
| " | Paso Robles | 1 | 1 |
| Oakland | Atascadero | 4 | 3 |
| " | Paso Robles | 19 | 7 |
| " | Templeton | 1 | 1 |
| San Leandro | Paso Robles | 1 | 1 |
| Niles | Paso Robles | 1 | 1 |
| San Francisco | Atascadero | 8 | 4 |
| " " | Paso Robles | 67 | 8 |
| " " | Templeton | 5 | 5 |
| " " | San Miguel | 8 | 5 |
| " " | Bradley | 1 | 1 |
| " " | Camp Roberts | 5 | 5 |
| San Jose | Atascadero | 2 | 2 |
| " " | Templeton | 2 | 2 |
| " " | Paso Robles | 16 | 5 |
| " " | San Miguel | 3 | 2 |
| " " | San Ardo | 1 | 1 |
| Paso Robles | Berkeley | 1 | 1 |
| " " | Oakland | 5 | 3 |
| " " | Alameda | 1 | 1 |
| " " | San Francisco | 7 | 3 |
| " " | So. San Francisco | 1 | 1 |
| " " | Redwood City | 1 | 1 |
| " " | San Jose | 1 | 1 |
| San Miguel | San Jose | 1 | 1 |
| Salinas | Camp Roberts | 1 | 1 |
| " | Paso Robles | 5 | 4 |

All of the information contained in Exhibits 2 and 3 was transcribed directly from respondent's freight bills, except the names of the persons who engaged her services. The latter information was supplied orally by respondent to the Field Division representative who made the investigation.

Respondent also stated to this representative that she maintains an office at Paso Robles, from which all freight bills are issued, and in which all records are kept; that one set of books is kept for all operations; that she has terminals in Paso Robles, San Jose and San Francisco, and an agency in Salinas; that she uses eight pieces of equipment with five drivers, and operates between

the Paso Robles area and the Bay area over U. S. Highways 101 and 101 By-Pass, and State Highways 9 and 17; that she has no special equipment, and no oral or written contracts.

Respondent does not claim that any of her services were rendered pursuant to contracts, and in her advertising and the number of persons actually served she indicated an intention and willingness to serve the public generally. We accordingly find that respondent was a highway common carrier in the conduct of this business.

Respondent established her termini, by her advertising, as San Francisco and Berkeley on the north and Santa Margarita on the south, and offered to transport property on an overnight basis between these termini and the intermediate points heretofore mentioned.

Her intention to establish a regular operation between fixed points is further indicated by the terminals she maintained, at or near these termini, in San Francisco and Paso Robles, and at the intermediate point of San Jose, and by the agency station established in Salinas.

Within the area thus defined, the record herein discloses regular or frequent service, with an average of at least one shipment a week, between: Berkeley and Templeton; Oakland, and Paso Robles and San Miguel; San Francisco, and Paso Robles, Atascadero, San Miguel, Templeton and Camp Roberts; San Jose, and Paso Robles, Atascadero and Templeton; Salinas and Paso Robles.

Operations conducted between the points noted with the frequency and regularity disclosed by this record, and within the limits of termini established by the carrier, clearly constitute highway common carriage, and we accordingly find that respondent Mabel R. Glass, doing business as Glass Transportation Company, has been and is operating as a highway common carrier, as defined in

Section 2-3/4 of the Public Utilities Act, between the points and places set forth in the ensuing order, without possessing a prior operative right therefor and without having obtained from this Commission a certificate of public convenience and necessity, in violation of Section 50-3/4 of said Act.

An order will be entered directing respondent to cease and desist from conducting the operations herein found to be unlawful.

O R D E R

Public hearings having been held and based upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED:

That Mabel R. Glass, doing business as Glass Transportation Company, be and she is hereby directed and required to cease and desist from operating, directly or indirectly, or by any subterfuge or device, any auto truck 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 Berkeley and Templeton; between Oakland, and Paso Robles and San Miguel; between San Francisco, and Paso Robles, Atascadero, San Miguel, Templeton and Camp Roberts; between San Jose, and Paso Robles, Atascadero and Templeton; and between Salinas and Paso Robles, unless and until said Mabel R. Glass shall have obtained from this Commission a certificate of public convenience and necessity therefor.

The Secretary is directed to cause a certified copy of this decision to be served upon respondent Mabel R. Glass.

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

Dated at San Francisco, California, this 7th day of August, 1951.

Justus F. Cravens
Harold P. Keli
Samuel L. Potter
John L. Maxwell

COMMISSIONERS