



December 11, 1951, in said application 1st and 2d Supplemental granted a similar certificate which by its terms expires December 31, 1953.

In Decision No. 47813 the Commission recited that "no evidence of renewal of adequate protection against liability imposed by law for the payment of damages for personal injury or property damage has been filed with the Commission by said Dudley Atkins, as required by General Order No. 101; and that the passenger stage service in question was discontinued September 3, 1952, because of the inability of said Dudley Atkins to renew his insurance coverage; therefore, it is found that Dudley Atkins is no longer conducting and has discontinued said passenger stage operation."

Based upon such finding the Commission by said Decision No. 47813 ordered that the certificate issued to Dudley Atkins by said Decision No. 46515 is "revoked and all effective tariffs and timetables on file in the name of Dudley Atkins are hereby cancelled." In defining the effective date of said Order said decision provided it would be effective on the twentieth day after service on Mr. Atkins "unless said Dudley Atkins before such effective date shall have filed with this Commission a written response to this order, denying the facts set forth herein and requesting a public hearing thereon, in which event the effective date of this order will thereby be stayed until hearing is had and further order issued." Service of the order was made upon Mr. Atkins October 20, 1952.

In a letter written to the Commission and received November 7, 1952, Mr. Atkins stated:

"This is to advise you that Decision No. 47813, dated October 14, 1952, and served upon me October 20, 1952, is refused. The undersigned, as certificate holder and operator of the Mountain Bus Line, tries to obey

all orders and rules of the Commission. Therefore, in obedience to General Order No. 101 and by authority of paragraph 9 of that order, service was suspended temporarily. Likewise by authority paragraph 9 of General Order No. 101, service will be resumed immediately upon filing of insurance policy with the Commission. There was no intention of going out of business, only the obedience of the Commission's orders. Application has been made to the California Automobile Assigned Risk Plan for insurance coverage in this case. To date there has been no reply from them."

Public hearings were held in Los Angeles before Examiner Rowe on January 9, 1953, and on January 21, 1953, on the revocation of operative rights held by Dudley Atkins and on Application No. 33949 requesting the issuance of a certificate of public convenience and necessity to applicant Jackson. The two proceedings were heard on a consolidated record. On January 21, 1953, both matters were submitted on concurrent briefs to be filed February 9, 1953. These briefs are now on file and the matter is ready for decision. A reply brief submitted on behalf of Dudley Atkins is unauthorized as contended by Applicant Jackson, and will not receive Commission consideration.

The testimony adduced at these hearings supports the conclusion that Mr. Atkins was in violation of General Order No. 101 commencing January 1, 1952, and continuing thereafter until his operations were terminated September 2, 1952 upon recommendation from members of the Commission Staff. On the latter date the General Order was complied with by ceasing operations and by attempts to procure the required insurance. Subsequently, insurance coverage was procured and filed with the Commission, whereupon service was recommenced December 22, 1952.

Other evidence was received without objection tending to show that Mr. Atkins had violated safety regulations, that his operations were not adequate in many respects, and that his financial position was such as to impair his ability to render a proper service. Application No. 31397 First and Second Supplemental and Application No. 33949 were submitted for decision. Thereafter because of this evidence and because of other information Case No. 5452 an Investigation on the Commission's Own Motion was instituted to determine the adequacy of his service. The submission in both applications was ordered set aside and the matters reopened for further hearing in connection with the investigation proceeding.

Such hearing was held before Examiner Rowe in Los Angeles on April 17, 1952. Further evidence was adduced and the three matters were duly submitted for decision.

At this hearing Crawford Ellis Jackson failed to appear in person or by counsel. A letter from his counsel of record addressed to the Commission under date of March 31, 1953, was read. This letter stated that "Mr. Crawford Ellis Jackson, applicant in the above-captioned proceeding, (Application No. 33949) finds it necessary to abandon his application because the persons who were willing to finance his proposed operation have withdrawn their financial support due to the time that has elapsed since the hearing:

"For this reason no appearance will be made on behalf of Mr. Jackson when this application and the associated proceeding regarding the service of Dudley Atkins are again heard."

In view of the abandonment of his application by Mr. Jackson it will be denied.

This leaves for decision only the question of whether the operative rights of Dudley Atkins should be cancelled and revoked because of violations of General Order No. 101 or because of the

matters and things alleged in the Commission's Order Instituting Investigation, dated March 18, 1953, in Case No. 5452.

The record shows many violations by Dudley Atkins of Commission orders and regulations and that his service has been inadequate. The financial statement of Mr. Atkins which he submitted stating a net worth of \$28,073.68 shows entirely inadequate liquid assets to permit a proper operation. Under fixed assets appears \$18,000 of real estate. This real estate consists of six unimproved lots being held as a long term investment. The \$5,000 under stocks and bonds consists of stock in an inoperative corporation with only claims as assets and these claims have long been in default and may even be termed as of questionable collectibility. The motor equipment set at \$5,000 consists of five pieces of equipment only two of which are presently operative and in poor condition. The personal possession item of \$1,000 consists of household furniture. Consequently, his financial condition appears to be a contributing cause of many of Mr. Atkins' violations, which consequently may be expected to continue.

Mr. Atkins now operates and intends to continue personally operating the bus to and from Mt. Wilson. During the past few months, and he intends to continue, he has been employed as a motorman for the Pacific Electric Railway working from 2:17 to 10:07 A.M. Thereafter he frequently drives his bus to and from the Mountain. On such occasions he is at work 15 hours and 43 minutes, consecutively. The Commission is of the opinion that no person can work such hours and do either job efficiently or safely.

No purpose appears to require a detailed discussion of the many violations of Commission requirements shown by the evidence, most of which were admitted by Mr. Atkins. These and other violations may be expected as well as the general continuance of

the inadequacy of service and the use of defective equipment so long as the operation continues to be unprofitable. With the loss of revenue from carrying the mail (which contract Atkins lost recently) even a substantial increase in rates presents no probability of any substantial profit from the continuance of this service. Because of the unreliability and general inadequacy of service the public requiring transportation to and from Mt. Wilson has to a very substantial degree provided itself with other means of transportation.

The Commission finds that there is now no substantial need for the passenger stage service as provided by respondent Dudley Atkins. The Commission further finds that the continuance by Mr. Atkins of the inadequate and unsafe operation as at present carried on and, as the Commission finds must be anticipated in the future, is contrary to the public interest and should cease and the operating rights of Dudley Atkins should be revoked and cancelled.

O R D E R

Public hearing having been held in the above-entitled proceedings, evidence having been received and duly considered and the matters having been submitted, the Commission now being fully advised and basing its order upon the findings in the preceding opinion,

IT IS ORDERED:

(1) That Application No. 33949 as amended be and it is hereby denied.

(2) That the operative rights acquired by Dudley Atkins granted by Commission Decision No. 46515 be and they are hereby revoked and cancelled.

(3) That all effective tariffs and timetables on file, in the name of Dudley Atkins be and are hereby cancelled and revoked.

The Secretary is directed to cause a certified copy of this order to be served upon Dudley Atkins.

The effective date of this order shall be the twentieth day after service of a copy thereof upon Dudley Atkins.

Dated at San Francisco, California, this 10th day of May, 1953.

R. Z. [Signature]  
PRESIDENT  
Justin J. [Signature]  
J. Ernest [Signature]  
[Signature]  
[Signature]  
COMMISSIONERS