

ORIGINAL

Decision No. 61515

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of ALBERT L. WEBB for an extension of his present certificate of public convenience and necessity to operate an automobile truck service as a highway common carrier for the transportation of motion picture film, and related commodities, between various points in Southern California.

Application No. 42745

Turcotte & Goldsmith, by Jack Goldsmith, for applicant.
Ivan McWhinney, for Bliss Film Delivery, protestant.

O P I N I O N

By Decision No. 38093, dated July 27, 1945, in Application No. 26668, Albert L. Webb (applicant) was given a certificate of public convenience and necessity as a highway common carrier authorizing him to transport motion picture films, motion picture theater accessories and supplies, viz.: advertising matter, electric lighting effects (including carbons, bulbs, and globes), motion picture projection machinery and parts, and tickets, between Los Angeles, Glendale, La Canada, Montrose, Tujunga, Altadena, Pasadena, South Pasadena, and Alhambra, and intermediate points, via two described routes.

By the application herein, filed with this Commission on October 7, 1960, applicant requests that his existing service

area be extended to authorize him to carry the commodities he now carries to the additional cities or communities of Monterey Park, San Gabriel, Temple City, Azusa, El Monte, Baldwin Park, Arcadia, and Monrovia, and intermediate points, via designated routes.

A public hearing on the application was held in Los Angeles before Examiner Kent C. Rogers on December 8, 1960. C. O. Bliss, doing business as Bliss Film Delivery, appeared as a protestant.

Both the applicant and the protestant transport the same commodities, viz.: motion picture film and related commodities between "motion picture row" (the "exchange") located on Washington Boulevard between Vermont and Western Avenues, on the one hand, and various theaters, on the other hand. The applicant presently serves motion picture theaters in an area bounded on the east by San Marino, Alhambra, and Pasadena (pink area Exhibit No. 2). He seeks to serve additional theaters in areas to the east (green area Exhibit No. 2). The protestant is authorized to serve theaters in the proposed service area plus additional areas to the south and east thereof.

There are at present in the proposed service area 15 motion picture houses. Eight of these are owned or controlled by Edwards Theater Circuit (round marks on green area Exhibit No. 2), two are owned by the Sanborns (X's in green Exhibit No. 2) and five are independently owned (XB's in green area Exhibit No. 2).

Applicant is now serving the eight Edwards theaters pursuant to a contract (Exhibit No. 1). A contract carrier, referred to as Gilboy Company, serves the two Sanborn theaters, and the protestant serves the five independent theaters.

Applicant will render service in the proposed area pursuant to his filed tariff, extended to allow for the additional distances to the proposed service area. The weekly rates would vary from \$6 in Monterey Park to \$8.50 in Azusa. Pursuant to applicant's filed tariff, the rules of which will apply in the extended area, applicant will, if necessary, pick up the old film at a theater in the afternoon and return that night to deliver the new film at the basic weekly charge regardless of the number of changes of film that week (Albert L. Webb, Local Freight Tariff No. 2, Cal. P.U.C. No. 7).

The protestant has authority to serve the area and has a tariff on file (Bliss Film Delivery, Local Freight Tariff No. 1, Cal. P.U.C. No. 2). He charges a rate per week, varied according to the number of changes of film, but with the same rates to all points. The rates vary from \$2.24 to \$6.72, which latter charge includes two changes of film per week plus pickup and delivery of all advertising matter, previews, and single-reel films. His tariff, however, specifies that unless the regular delivery items are ready for pickup at the theater or the exchange one day in advance of the play date the theater will be charged extra for subsequent pickup or delivery the same day of the film. These charges vary from \$2.40 in Monterey Park to \$6.60 in Glendora and Charter Oak.

The vice-president of Edwards Theater Circuit (eight theaters in the proposed service area) stated that the circuit formerly used the protestant's services but ceased to use them in 1953 because he assessed extra charges for same day pickup at the exchange and delivery at the theater. Applicant

includes the extra trips in its regular service charge. The record shows a dispute as to whether the circuit refused to pay the charges arbitrarily, or whether the moving picture houses involved went out of business, but the bills were settled on a 50 percent basis.

The witness further testified that before using the protestant's services in the future, the circuit would haul the films in its own equipment.

A representative of the two Sanborn theaters stated that these theaters used the services of the Gilboy carrier; that they formerly used the protestant's services and found them not to be adequate in that presently the film must be picked up on film row and delivered to the theaters the same day because of the fact that the number of copies of films has been reduced. As a result, he said, the majority of the charges for the protestant's services were based on the extra charge provision in the protestant's tariff. This circuit will not use the services of the protestant in the future. It is interesting to note that for the same number of deliveries (one weekly change of film is usual and, occasionally, there are two changes) the applicant's charges and the protestant's charges, including a special delivery fee, would be approximately the same for a same-day pickup and delivery service.

Mr. C. O. Bliss testified that he has authority from this Commission to serve an area which includes the applicant's proposed service area (the green area on Exhibit No. 2); that in his service area there are 24 theaters; that he formerly served all 24 theaters including those of the Edwards Theater Circuit

and the two Sanborn theaters; that he still serves five theaters in the proposed service area (marked XB on Exhibit No. 2); that he is ready and willing to serve all theaters in the area at his tariff rate; that he needs the business; and that, if this application is granted and he loses additional customers, he will be forced out of business.

From the record herein it appears and we find and conclude that the protestant, C. O. Bliss, is not providing a service in applicant's proposed service area which meets the public convenience and necessity. The Commission, having considered the matter, is of the opinion and finds and concludes that public convenience and necessity require that applicant be authorized to establish and operate a highway common carrier service as hereinafter set forth. An in lieu certificate will be granted for the purpose of clarification in place of applicant's present operating authority which will be canceled.

Albert L. Webb is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

An application having been filed, a public hearing having been held thereon, the Commission having found that public convenience and necessity require that applicant be granted the authority he has requested, and based on said finding,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Albert L. Webb, authorizing him to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of motion picture films, motion picture theater accessories and supplies, viz.: advertising matter, electric lighting effects (including carbons, bulbs and globes), motion picture projection machinery and parts, and tickets, between the points and over the routes as particularly set forth in Appendix A attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.

b. Within one hundred twenty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

(3) That the certificate of public convenience and necessity granted in paragraph (1) of this order is in lieu of and supercedes the certificate of public convenience and necessity granted by Decision No. 38093, dated July 27, 1945, in Application No. 26663, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the tariff filings required by paragraph (2) b hereof.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of February, 1961.

Cecil W. Page
President

W. E. Mitchell

W. L. Fox

George A. Brown

Fredrick B. Holoboff
Commissioners

Albert L. Webb, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport motion picture films, motion picture theater accessories and supplies, viz.: advertising matter, electric lighting effects (including carbons, bulbs and globes), motion picture projection machinery and parts, and tickets, to, from, and between the following cities, towns and places: Los Angeles, Glendale, La Canada, Montrose, Tujunga, Altadena, Pasadena, South Pasadena, Alhambra, Monterey Park, San Gabriel, Temple City, Azusa, El Monte, Baldwin Park, Arcadia, and Monrovia, and intermediate points, via the following routes:

Route 1. Beginning at the intersection of Washington Boulevard and Vermont Avenue (Los Angeles), thence along Vermont Avenue, Santa Monica Boulevard, Sunset Boulevard, Hyperion Avenue, San Fernando Road, Central Avenue (Glendale), to Glendale; thence continuing along Colorado Boulevard, Verdugo Road, La Canada Boulevard, Verdugo Boulevard to La Canada; also, beginning at the juncture of Verdugo Road and Verdugo Boulevard in Montrose, thence along Honolulu Avenue and Tujunga Canyon Boulevard to Tujunga; thence along Foothill Boulevard, La Canada-Verdugo Road, Figueroa Drive, Lincoln Avenue, Foothill Boulevard to Altadena; thence along Lake Avenue to Pasadena; thence along Broadway Avenue, (Arroyo Parkway) to South Pasadena.

Deviation to Route 1. Along Colorado Boulevard between the cities of Glendale and Pasadena when it is not necessary to make return calls to La Canada, Montrose or Tujunga.

Issued by California Public Utilities Commission.

Decision No. 61515, Application No. 42745.

Route 2. Beginning at the intersection of Washington Boulevard and Vermont Avenue (Los Angeles), thence along Washington Boulevard, San Pedro Street, Aliso Street, Alameda Street, Macy Street, Mission Road, Huntington Drive to Alhambra; thence along Atlantic Boulevard, Huntington Drive, Sierra Madre Boulevard to Pasadena.

Route 3. Beginning at the southern boundary of the city of Alhambra and Garfield Avenue (Hellman and Garfield Avenues) via Garfield Avenue to Monterey Park.

Route 4. Beginning at the eastern boundary of the city limits of Alhambra at Main Street via Las Tunas Drive, Live Oak Avenue, Arrow Highway and Azusa Avenue to Azusa.

Route 5. Beginning at the intersection of Las Tunas Drive and Rosemead Boulevard in Temple City via Rosemead Boulevard, Garvey Avenue, Valley Boulevard, Peck Road, San Bernardino Road, Ramona Boulevard, San Bernardino Road and Azusa Avenue to Azusa.

Route 6. Beginning at the eastern boundary of the city of Pasadena at Colorado Street via Colorado Street, Colorado Place, Huntington Drive, Foothill Boulevard and Azusa Avenue to Azusa.

End of Appendix A

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Decision No. 61515, Application No. 42745.