

Decision No. 20820.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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MOTOR SERVICE EXPRESS, a corporation,  
et al.,

Complainants,

vs.

S. B. COWAN, et al.,

Defendants.

**ORIGINAL**

Case No. 2536.

In the Matter of Application of  
Lewis A. Monroe, Agent for  
EIGHT LINE EXPRESS, Adam J. Baker,  
owner, and WIRLWING, ORANGE COUNTY  
AND SAN JUAN EXPRESS, for joint  
tariffs.

Application No. 14497.

In the Matter of Application of  
ADAM J. BAKER for a certificate of  
public convenience and necessity  
between Los Angeles and Riverside.

Application No. 14750.

Richard T. Eddy, for Applicants and Defendants  
in Case 2536.

H. J. Bischoff, for Protestants.

Douglas Brookman for United Parcels Delivery  
Service, Protestant.

A. C. Eugg, for Southern Pacific Company and  
Pacific Electric Ry., Protestants.

BY THE COMMISSION:

O P I N I O N

In a previous case (Case 2405 - Decision 19396)  
against S. B. Cowan and Adam Baker, the defendants also in the  
complaint above, the Commission found that they had attempted  
to establish a through auto truck service between Los Angeles,  
and Riverside in violation of their certificates. They were  
ordered to withdraw the proportional rates which they had

published and to make certain other changes in their operations. It is now alleged that they have not complied with our order and that they are still rendering a through service between such points.

The defendants claim that immediately upon the issuance of the decision in the earlier case they made the changes necessary to comply specifically with our order therein. In addition, they together caused the above application to be filed asking that the Commission permit them to publish joint rates between Los Angeles and Riverside, and Baker individually filed the other in which he seeks a certificate of public convenience and necessity for a direct service between such points. In answer to the allegation that they are still rendering a through service, they claim that soon after the issuance of our order they made other general changes in their operations which have removed all question as to the legality of the service which they render. The complainants in the above case and others protest the granting of both applications.

Baker, who operates under the fictitious name of "Belt Line Express", has a certificate from Balboa eastward through Santa Ana to Riverside. Cowan has an operative right from Los Angeles south to Santa Ana. There is no question as to the close connection between the two, nor the effectiveness of the arrangement between them which has made possible a through service between Los Angeles and Riverside via Santa Ana. In fact it is a service which they themselves and their patrons declare has been and now is efficient and satisfactory. These applications, therefore, as they admit, are filed merely as alternative propositions, in the expectation that one of them may meet with our approval. If their

present operations are legal, apparently they will gain no advantage from the granting of either application.

Upon the issuance of our order in the case above referred to on February 21, 1928, Cowan and Baker undertook to utilize an existing corporate organization bearing the name of "Belt Line Express, Inc." to conduct the business of an "express company" between Los Angeles and Riverside. Because of the similarity of the name with that of Baker's trucking business, no particular changes in operations were noticeable or necessary, as far as the users of the services of the carriers were concerned. In theory, however, all transportation of goods between Los Angeles and Riverside has since been conducted by an express company, which has employed Cowan's line and Baker's line to render the physical service. The Belt Line Express, Inc. is in every sense, except a purely corporate one, a mere fiction. Its books of account, if it has any, were not before used in this proceeding, but the books of Adam Baker show no account kept with the express corporation, and the arrangements made with it by both Cowan and Baker as to the charges for services rendered were admittedly, even several months after the express corporation supposedly began doing business, so indefinite as to be unworthy of consideration.

The circumstances surrounding the pretended utilization of an express company by Cowan and Baker to accomplish the very result which this Commission had in an earlier decision denied to these defendants, justify us in declaring such an arrangement a mere pretense and subterfuge to evade regulation. There is no possible justification for Cowan and Baker, as common carriers, granting any rate concessions to an express

company which has nothing to offer in return other than a possible device for them to evade the law. As common carriers they should charge express companies their full published rates, unless there is some reasonable consideration to them for the execution of a bona fide agreement providing for a lower rate, and such agreement is duly filed with this Commission. (Pacific States Express, 22 C.R.C. 925).

From what we have said above we feel that we would not be justified in granting either application as prayed for, and find, consequently, that public convenience and necessity do not require the proposed through auto truck service between Los Angeles and Riverside, nor the publication by the two applicants of joint rates between such points.

#### ORDER

A public hearing having been held on the above entitled complaint and applications, the matters having been submitted and now being ready for decision, and the Commission being fully advised and basing its order on the findings and conclusions contained in the foregoing opinion,

IT IS HEREBY ORDERED that S. B. Cowan and Adam Baker and each of them immediately cease and desist from the transportation of goods by motor truck for compensation between Los Angeles and Riverside as a through service without having first obtained a certificate from this Commission so to do, and

IT IS HEREBY FURTHER ORDERED that said S. B. Cowan and said Adam Baker quote and apply to "express companies" only such rates as are legally published and filed by them

with this Commission, or as may lawfully be established by special contract duly filed with this Commission, and

IT IS HEREBY FURTHER ORDERED that the above applications of S. B. Cowan and Adam Baker and of Adam Baker be and the same hereby are denied.

Dated at San Francisco, California, this 28th day of December, 1928.

Leon A. Whaley

C. J. Seaman

Wm. S. Powell

M. J. Kim  
Commissioners.