

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Investigation on the Commission's own motion into the rates, rules, regulations, charges, classifications, contracts, practices and operations, or any of them, of ALDEN P. ASHTON, operating under the fictitious name and style of Ashton Truck Company; E. R. KETCHUM, operating under the fictitious name and style of Atlas Transfer; B. W. BELYEA, operating under the fictitious name and style of Belyea Truck Company; CALIFORNIA TRUCK CO., INC., a corporation; CITIZENS TRUCK COMPANY, a corporation; J. A. CLARK, operating under the fictitious name and style of J. A. Clark Draying Co.; DAVIES WAREHOUSE COMPANY, a corporation; DONOVAN TRANSPORTATION COMPANY, a corporation; LOS ANGELES & SAN PEDRO TRANSPORTATION CO., INC., a corporation; MARR FREIGHT TRANSIT, INC., a corporation; PAUL KENT TRUCK CO., INC., a corporation; PIONEER TRUCK COMPANY OF LOS ANGELES, a corporation; PACIFIC MOTOR TRANSPORT COMPANY, a corporation; PUCKETT FREIGHT LINES, LTD., a corporation; O. C. BUTLER and H. A. GRUNDY, co-partners, operating under the fictitious name and style of Pacific Transportation Company; LISLE L. SMITH, operating under the fictitious name and style of Smith Bros. Truck Co.; E. S. STANLEY, operating under the fictitious name and style of Star Truck & Transfer Co.; WALTER A. JUNGE, operating under the fictitious name and style of Seaboard Transportation Company; RICHARDS TRUCKING & WAREHOUSE COMPANY, a corporation; JAMES F. DEVEREAUX, operating under the fictitious name and style of Scandia Truck & Transfer Co.; SCANDIA TRUCK & TRANSFER CO., INC., a corporation; WHITE TRUCK AND TRANSFER COMPANY, a corporation; and T. J. WADE, operating under the fictitious name and style of Wade Shipping Company; engaged in operating common carrier trucking service between points in the State of California.

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Charles H. Schaeffer, for Alden P. Ashton, operating under the fictitious name and style of Ashton Truck Company.

Phil Jacobson for E. R. Ketchum, operating under the fictitious name and style of Atlas Transfer; J. A. Clark, operating under the fictitious name and style of J. A. Clark Draying Company; Marr Freight Transit, Inc., a corporation and White Truck and Transfer Company.

Rex Boston for B. W. Belyea, operating under the

fictitious name and style of Belyea Truck Company;

Hugh Gordon and Howard Robertson for California Truck Company, Inc., a corporation; Citizens Truck Company, a corporation; Los Angeles and San Pedro Transportation Company, Inc., a corporation; Paul Kent Truck Company, Inc., a corporation; Pioneer Truck Company of Los Angeles, a corporation; O. C. Butler and H. A. Grundy, copartners, operating under the fictitious name and style of Pacific Transportation Company; Lisle L. Smith, operating under the fictitious name and style of Smith Bros. Truck Company; E. S. Stanley, operating under the fictitious name and style of Star Truck and Transfer Company; Richards Trucking and Warehouse Company, a corporation, and Scandia Truck and Transfer Company; James F. Devereaux, operating under the fictitious name and style of Scandia Truck and Transfer Co.

Rex Boston for Walter A. Junge, operating under the fictitious name and style of Seaboard Transportation Company.

H. J. Bischoff for Donovan Transportation Company, a corporation.

Frank Karr, C. W. Cornell and L. B. Young for Pacific Motor Transport Company.

J. W. Puckett for Puckett Freight Lines, Limited, a corporation.

Charles A. Bland for Board of Harbor Commissioners, Long Beach, California.

D. G. Shearer and L. T. Fletcher, for California Inter-urban Motor Transportation Association.

T. J. Wade, for Wade Shipping Company.

Sanborn, Roehl & Brookman, by Douglas Brookman, for R. G. Knoll.

WHITSELL, Commissioner:

PRELIMINARY OPINION

The above named automotive truck carriers operate between Los Angeles and Los Angeles Harbor points either by virtue of operations prior to May 1, 1917, or under certificates thereafter granted. In the above general investigation on the

Commission's own motion "and more particularly with respect to the failure to charge rates in accordance with published tariffs on file", they were ordered to show cause why existing operative rights should not be revoked and annulled. Some eighty-three witnesses testified during four days of public hearings. All but two of the carriers admitted tariff deviations and at this time no useful purpose would be served in reviewing the testimony in detail.

Many of the carrier witnesses explained that they were forced to meet competitive rates quoted by uncertificated carriers, and in some instances by certificated carriers, in order to retain their business. Certain of the respondents have actively solicited tonnage at reduced rates. It appears from the testimony that many shippers in offering goods for transportation inform the carrier what rate the shipper is willing to pay and the carrier is then left the alternative of transporting the goods at such rate or of not obtaining the business. Failure to file the rates actually charged with the Commission has been explained as being due to the fact that solicitors of competing lines would immediately offer a still lower rate. Further reasons offered for failure to file new rates were that further reductions would be necessary in order to meet competition before the expiration of thirty days,⁽¹⁾ and that shippers would not wait thirty days for a particular rate to become effective.

(1) Rule 20 of the Commission's General Order No. 80 provides: "Unless otherwise authorized by the Commission, no change shall be made in any rate, fare, classification, charge, regulation or practice, except after thirty days' notice to the Commission and to the public * * * *".

During the past two or three years efforts have been made by the carriers to have all certificated lines operating to Harbor points join in a uniform tariff. It appears that these efforts have proven unsuccessful, certain lines believing that their operating expenses are such as to enable them to operate profitably at a lower tariff rate than other carriers, have refused to become parties to any uniform rate schedule. Since the hearing eighteen of respondent carriers have filed new tariffs. With minor exceptions the rates set forth in these separate tariffs are identical.

In view of the recommendation to be made herein as to the disposition of this proceeding, I do not believe it advisable at this time to comment upon the activities of any particular respondent. A careful study of the record indicates, however, just cause for the revocation of operative rights in many instances. While it may be ^{urged} ~~advised~~ that extenuating circumstances exist in the form of competition by both certificated and non-certificated operators, flagrant disregard of the law may not be thus lightly condoned. If present conditions have been due in part to unauthorized operations to and from the Harbor points, the remedy lies in the filing and prosecution of formal complaints before the Commission or in the courts, rather than indiscriminate rate cutting on the part of the established lines. If the regulated, and presumably responsible operators, do not themselves comply with the provisions of the regulatory statutes or endeavor to adhere to their lawfully established rates, little may be done in stabilizing the competitive situation in which they now find themselves.

Under the existing circumstances and conditions as

disclosed in the record, and for which respondent carriers are themselves partly responsible, it is my opinion that a final decision in this proceeding should be postponed and the respondents granted an opportunity to avoid possible revocation of operating rights by adhering to their tariff rates and observing in all other matters the obligations imposed upon them by statute and by the decisions and regulations of the Commission. This preliminary disposition of the present investigation is not to be taken as an indication that past derelictions have been found to be justified in any manner by the competitive situation disclosed in the record heretofore made. During the probationary period, if it may be so termed, upon the recurrence of further questionable practices, it is my opinion that this investigation should be reopened at once for further hearing, or that other appropriate proceedings be instituted by the Commission. The respondents herein are expected to, and, under the regulatory statutes, must charge the rates set forth in their respective tariffs on file. By the exacting of other and different rates they will not only jeopardize their rights to continue operating, but become liable to prosecution under the penal provisions of the statute.

It appears that shippers have negotiated for, and under the threat of giving their business to other carriers, have influenced and persuaded carriers to grant special rates and concessions contrary to tariff provisions. The attention of carriers and shippers alike should be directed to Section 8 of the Auto Stage and Truck Transportation Act (Stats. 1917, Ch. 213, as amended), which reads as follows:

"Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the railroad commission, or who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or any part or provision thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment."

In recommending the following form of order it is my opinion that final decision herein should be held in abeyance for a period of six months or such other time as the Commission may deem proper.

PRELIMINARY ORDER

Good cause appearing, IT IS HEREBY ORDERED that final decision in the above entitled proceeding be suspended for a period of six months, the Commission reserving the right to reopen this investigation for further hearing should such further hearing be deemed necessary.

The foregoing Preliminary Opinion and Order are hereby approved and ordered filed as the Preliminary Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of November, 1931.

C. C. Seamy
Leon Whitley
M. A. ...
W. B. ...
Frederic S. ...
Commissioners