

Decision No. 25813.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

UNITED PARCEL SERVICE OF LOS ANGELES, INC.,
a corporation,
Complainant,

vs.

20th CENTURY DELIVERY SERVICE, INC., a corporation, LOUIS M. GOODMAN, doing business under the firm name and style of "Goodman Delivery Service," Phil Jacobson, Benjamin Fullman, Joseph H. Noyes, George B. Gibson, Harry Husted, George Sloan, Luther Marshall, A. Hamilton, First Doe, a corporation, Second Doe, a corporation, Third Doe, a corporation, Fourth Doe, Fifth Doe, Sixth Doe, Seventh Doe, Eighth Doe, Ninth Doe and Tenth Doe,

Defendants.

Case No. 3299.

Douglas Brookman and Fred G. Athearn, for
United Parcel Service of Los Angeles, Inc.

Frank P. Doherty, for Respondents.

CARR, COMMISSIONER:

OPINION ON ORDER TO SHOW CAUSE WHY
20th CENTURY DELIVERY SERVICE, INC.,
JOSEPH H. NOYES AND BENJAMIN FULLMAN
SHOULD NOT BE PUNISHED FOR CONTEMPT.

On December 21st affidavit in proper form was filed with the Commission, in which it was alleged that 20th Century Delivery Service, Inc., Benjamin Fullman and Joseph H. Noyes had violated the terms of the Commission's order herein, of date October 24, 1932, and on December 27th, by order, the corporation, Fullman and Noyes were cited to show cause on January 31, 1933 why they should not be punished for contempt.

A public hearing was had on the return day.

Violations of the Commission's order were charged to have occurred on November 29 and 30 and on December 1, 2, 5 and 6, 1932.

It appeared that the 20th Century Delivery Service, Inc., on December 1st, filed, effective on December 2nd, an express tariff. In the process of transition from the operations condemned by the order to those of an express company there may have been technical violations of the order, although the evidence is not clear that even such occurred. At any rate, the evidence presented indicated that the 20th Century Delivery Service, Inc. and the respondents, its officers, made a real effort to comply with the Commission's order and to operate within the law.

The power vested in this Commission by the Constitution and by the Public Utilities Act to punish for contempt is one which should be used sparingly and only when and to the extent necessary to insure a respect for and an observance of its lawful orders. The record as here developed does not show this to be a case calling for the exercise of this power.

The following form of order is recommended:

O R D E R

A public hearing on the Order to Show Cause herein having been duly had and the matter submitted,

IT IS HEREBY ORDERED that the said proceeding to punish for contempt be and it is hereby dismissed.

The foregoing opinion and order on Order to Show Cause are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of February, 1933.

W. A. Carr
W. B. Lewis
W. B. Lewis
W. B. Lewis
COMMISSIONERS.