

Decision No. 25747

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

THE RIVER LINES (The California  
Transportation Company, Sacramento  
Navigation Company, and Fay Trans-  
portation Company), and REGULATED  
CARRIERS, INC., a corporation,

Complainants,

vs.

FRANCIS GEHRING, JOHN GEHRING,  
FRANCIS GEHRING, doing business under  
the firm name and style of Gehring  
Truck Company, JOHN GEHRING doing  
business under the firm name and  
style of Gehring Truck Company,  
FRANCIS GEHRING and JOHN GEHRING,  
doing business under the partnership  
name and style of Gehring Truck Com-  
pany, JOHN DOE, RICHARD ROE and  
JOHN DOE CORPORATION,

Defendants.

ORIGINAL

Case No. 3405.

McCutchen, Olney, Mannon & Greene, by F. W. Mielke,  
for Complainants,

Horace M. Street for Defendants,

Edward Stern for Railway Express Agency, Inc.,  
Intervener on behalf of the Complainants.

BY THE COMMISSION:

O P I N I O N

By complaint filed on November 5, 1932, complainant charges  
that Francis Gehring, John Gehring, Francis Gehring, doing business  
under the firm name and style of Gehring Truck Company, John Gehring  
doing business under the firm name of Gehring Truck Company, Francis  
Gehring and John Gehring, doing business under the name of Gehring  
Truck Company, with unlawful common carrier operations by auto truck  
between San Francisco, California, on the one hand, and Corning, Orland

and Willows, California, on the other hand, including service to points intermediate to the said fixed termini.

Public hearings were held before Examiner Satterwhite on February 16, 1933, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows:

The evidence shows that during the past two years, and continuously up to the present, the defendants and each of them as individuals and not otherwise, in response to the request of various shippers and business establishments at Corning, Orland, Willows and two or three other way-points, have transported by trucks and trailers such a substantial tonnage of freight both north-bound and south-bound between these points and San Francisco that each of them has been obliged to maintain regularly two or three trips weekly.

The transportation service performed by each of the said defendants has been based upon oral arrangements whereby each defendant has indicated his ability and willingness upon request to haul particular or various commodities for a rate named and agreed upon.

Defendant John Gehring is the father of the defendant Francis Gehring and they reside together at Orland. Their business head-quarters are maintained at their residence and Mrs. John Gehring, wife of John Gehring, is their joint book-keeper, does their office work and is charged, among other things, with the duty of answering requests either by 'phone or otherwise for truck transportation services.

Macy & Company is the largest shipper served by and chief patron of Francis Gehring. This firm operates stores at Corning, Orland and Willows and deals extensively in general

merchandise, groceries, farm products, beets and lumber and their shipments to and from San Francisco require Francis Gehring to make for them two or three trips weekly.

The Orland Cheese & Butter Company, large producers of butter, and the California Turkey Growers Association, large turkey raisers, are the largest patrons of John Gehring. This defendant makes at least two, sometimes three, trips a week to San Francisco in hauling butter for this butter company and carries about 1000 lbs. to two tons a trip. During several months of the year he carries large shipments of dressed turkeys to San Francisco from Orland, Willows and Corning for this Turkey Growers' Association.

The following named merchants and shippers also have used and continue to patronize the trucking service of one or the other of the defendants from time to time to and from San Francisco, and from and to Orland, Corning, Artois, Willows and Maxwell:

Ward & Killebrew  
Scearce & Franke  
Economy Cash Store  
Orland Vanity Store  
Golden State Company  
Rosenberg Bros.  
Glick & Sons  
Swift & Company  
Anchorage Farm  
Ellis J. Levy  
F. M. Huddleston  
Rumiano Cheese Factory  
Mills Orchard Company

The freight traffic which is handled generally by the defendants consists, among other commodities, of general merchandise, groceries, mill feed, butter, eggs and poultry, dairy products, olives, dried fruits, lemons and also hardware.

John Gehring owns and operates a three ton International Truck, a Ford truck, a Chevrolet truck and a three ton trailer. Francis Gehring owns and operates a three ton truck and trailer.

The defendants testified that their rates are always fixed, after negotiations for particular hauling jobs or services, but the record shows that their rates are more or less standardized and range from 17½ cents to 75 cents per hundred pounds. It also appears that defendants have refused from time to time to haul shipments when offered, but the refusals were occasioned either by lack of equipment or lack of space on equipment or the amount of shipment was too small or the rates tendered were not satisfactory. The defendants co-operate or help each other out in the conduct of their individual trucking business, and when either of them is unable to haul a particular or regular shipment for any reason, the other will accommodate the shipper and do the hauling and retain the proceeds for the hauling. It appears that the defendants at times have utilized a rubber stamp entitled John Gehring & Son, but the evidence shows that the use of this stamp has been discontinued for the reason that it was misleading as to the business relationship of said defendants.

A cease and desist order should issue.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wernuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v.

Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck Transportation Act (Statutes 1917, Chapter 213, as amended), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a shipper or other person who aids or abets in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

O R D E R

IT IS HEREBY FOUND THAT said defendant Francis Gehring, and said defendant John Gehring, and each of them, is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status between San Francisco, California, on the one hand and Corning, Orland and Willows, on the other hand, including service to Artois and Maxwell, points intermediate to the said fixed termini, and without a certificate of public convenience and necessity or prior right authorizing such operations.

Based upon the Finding herein and the Opinion,

IT IS HEREBY ORDERED that said defendant Francis Gehring and said defendant John Gehring, and each of them, shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operations.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon said defendant Francis Gehring and said defendant John Gehring, that he cause certified copies thereof

to be mailed to the District Attorney of the City and County of San Francisco, and the District Attorneys of Tehama, Glenn and Colusa Counties, to the Board of Public Utilities and Transportation of the City of Los Angeles and to the Department of Public Works, Division of Highways, at Sacramento.

The effective date of this order shall be twenty (20) days after the date of service upon defendants.

Dated at San Francisco, California, this 20<sup>th</sup> day of March, 1933.

O. S. Leary  
Leon Switzer  
M. A. Cune  
W. B. Harris  
W. H. Harrison  
Commissioners.