

Decision No. 25880

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,
Complainant,

vs.

L. E. A. JONES, FIRST DOE, SECOND DOE,
THIRD DOE, FOURTH, FIFTH DOES, FIRST DOE
CORPORATION, SECOND DOE CORPORATION, THIRD
DOE CORPORATION, FOURTH DOE CORPORATION,
FIFTH DOE CORPORATION,

Defendants.

Case No. 3449

ORIGINAL

Reginald L. Vaughan and Scott Elder for
Regulated Carriers, Inc., Complainant.

H. S. Graham for Petaluma & Santa Rosa Railroad Co.

L. E. A. Jones, in propria persona.

BY THE COMMISSION -

OPINION

By complaint filed on December 22, 1932, complainant charges L. E. A. Jones, First Doe et al. with unlawful common carrier operations by auto truck between San Francisco, South San Francisco, on the one hand, and Petaluma, Santa Rosa and intermediate points, on the other hand.

Public hearings were had before Examiner Satterwhite at Santa Rosa on March 31, 1933, on which date the case was submitted.

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

The record shows that L.E.A. Jones since June 1, 1931, has been continuously conducting a truck transportation service between San Francisco and Santa Rosa, serving Petaluma, Cotati,

San Rafael and other way points. His equipment consists of a four ton Ford truck which thus far has been of sufficient capacity to transport under a daily service, except Sundays, various commodities which have been hauled for at least a dozen regular shippers and customers in either one or both directions. He has obtained his patronage, as a rule, by personal solicitation and the tonnage transported has been limited to the capacity of his truck. Defendant holds a written agreement with most of his regular customers, all of which agreements are substantially in the same form as the following blank contract:

Name _____ Date _____
San Francisco.

THIS CONTRACT, made out and entered into the ___ day of _____, 1931 __, by and between _____, a wholesale jobber of ranch produce doing business in San Francisco, hereinafter referred to as the Shipper and L.E.A. Jones an individual Private Contract Carrier, doing business at Petaluma and elsewhere, hereafter referred to as Carrier, does outline as follows:

(Merchandise described)

That said Carrier does contemplate and offer to receive and make delivery of such merchandise as is entrusted to his care according to directions of said shipper.

That such merchandise shall be covered by adequate insurance while in transit and delivered in good order.

This agreement, constituting as it does a contract of employment, is therefore subject to the general rules of employment as understood in the State of California and approved by the California Labor Commission, except that Carrier agrees to maintain his own compensation and liability insurance.

In witness whereof the parties concerned have on the date first mentioned above attached their names hereunder .

Witness:

The record shows that the following customers of defendant utilize his truck services regularly for the shipment of large quantities of eggs and poultry to a considerable number of retail grocers and others at San Francisco:

Robert C. Ross, an egg dealer at Cotati -- ships about 500 pounds of eggs daily to at least ten grocery men in San Francisco, each of whom pays the hauling charges.

O'Brien, Sportono & Mitchell, egg and poultry dealers, at San Francisco, ship eggs and poultry from Santa Rosa three or four times weekly.

R. Mc Gowan, egg dealer, of San Francisco, ships eggs from Santa Rosa by defendant.

Mr. Croft at Santa Rosa ships eggs to Johnson Bros. at San Francisco.

George Gifford at Cotati ships eggs to San Francisco under a verbal agreement with defendant.

Defendant returns the empty crates and hauls other commodities from San Francisco for these egg dealers whenever requested.

Large shipments of meat of different kinds are transported by defendant from San Francisco for Cudahy Packing Company and Tiedemann & Harris for numerous consignees at Santa Rosa, Petaluma and San Rafael several times a week. The Jobbers Electric Wholesale Co., dealers in electrical equipment, at Santa Rosa, have shipped almost daily since January, 1933, by defendant from San Francisco all kinds of electrical merchandise ranging from six to ten tons weekly. The Santa Rosa Macaroni and Spaghetti factory uses the services of defendant several times a month for the delivery of macaroni and spaghetti to various customers between Santa Rosa, Petaluma, San Rafael and Novato. The Milner Sporting Goods store, at Petaluma, another regular customer of the defendant, ships at least three times weekly sardines, and during the fishing season the shipments average 2700 pounds a week.

The defendant testified that if the amount of his shipments, by reason of the loss of any customer, drop at any time below the capacity of his four ton truck he sought further business in order to utilize its full capacity.

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. 307; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller 33 C.R.C. 371.

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 L. E. A. Jones 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 and Santa Rosa serving San Rafael, Cotati, Novato, Petaluma and

intermediate points 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 L. E. A. Jones 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 L.E.A. Jones; that he cause certified copies thereof to be mailed to the District Attorney of the City and County of San Francisco and to the District Attorneys of Marin and Sonoma 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 defendant.

Dated at San Francisco, California, this 24th day of April, 1933.

W. A. C.

Leon Whitley

W. A. C.

M. B. K.

M. B. K.

COMMISSIONERS.