

ORIGINAL

Decision No. 8780

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the operation and practices of Hugh A. Boyle, Hugh Allen Boyle and James J. Ryan, co-partners, operating a freight and express service between Sebastopol, Santa Rosa, Cotati, Petaluma, Novato, and Richmond, Berkeley and Oakland, in Contra Costa and Alameda Counties.)

CASE NO. 1501.

- Sullivan, Sullivan and T. J. Roche by George D. Squires for Defendants.
- E. E. Maggard for Petaluma and Santa Rosa Railroad.
- L. M. Bradshaw for Southern Pacific Company.
- J. J. Geary for Northwestern Pacific Railroad Company.

BY THE COMMISSION:

O P I N I O N

This is a proceeding instituted on the Commission's own initiative to inquire into the operation and practices of Hugh A. Boyle, Hugh Allen Boyle and James J. Ryan, co-partners, operating an automobile freight and express line between Sebastopol and Oakland and intermediate points under the authority conferred by Decision Number 8072 on Application Number 5778 as decided September 10, 1920, such decision particularly specifying that the certificate granted conveyed no authority for operation between Oakland and San Francisco.

Information having been received by the Commission that the conditions of the order were being violated in that

operation was being conducted with San Francisco as a terminal point, the investigation on the Commission's own initiative was instituted.

A public hearing was conducted by Examiner Handford at San Francisco on October 30, 1920; at which time the matter was duly submitted and is now ready for decision.

It appears from the evidence that on October 14, 1920, one of the Commission's inspectors found a truck operated by the applicants en route from Oakland to San Francisco via the creek route ferry of the Southern Pacific Company, such truck containing five coops of live poultry destined to poultry dealers in San Francisco. The driver of the truck also informed the Commission's inspector that he made similar trips practically every day.

A witness for defendants in charge of their operation testified that at the time the truck was observed between Oakland and San Francisco that such operation was not that of a common carrier as authorized by the Commission's Decision Number 8072 on Application Number 5778 in that operation under such certificate had not commenced and that there had been filed with the Commission an acceptance of the order as required by its provisions, said acceptance stating that operation would be commenced within thirty days from the date of acceptance. The records of the Commission indicate that the acceptance of the conditions of the order and the tariffs required by the order were filed indicating that operation was to be commenced on October 20, 1920.

In view of the foregoing, it is apparent that the operation conducted by defendants on October 14, 1920, the date that a truck belonging to defendants was observed on route from Oakland to San Francisco via the creek route

ferry of the Southern Pacific Company , was not operation as a common carrier under the authority conferred by the Commission in its decision above referred to and that the above matter should be dismissed.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that this matter be and the same hereby is dismissed.

Dated at San Francisco, California, this 16th
day of May, ~~1920~~ 1921

W. P. Rundick
F. D. Lovland

Charles H. Rowell

W. P. Benedict

Commissioners.