

Decision No. 2586.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALFRED R. KELLY, JR.,  
Complainant,

vs.

A. HARWOOD,  
Defendant.

Case No. 3487.

ORIGINAL

Reginald L. Vaughan for Complainant.

Edward Stern for Railway Express Agency, Inc.,  
an interested party.

H.W. Hobbs for Defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed on January 30, 1933, complainant charges A. Harwood with abandoning certificated operations by auto truck between Willits and Garberville and the intermediate points of Outlet, Arnold, Longvale, Laytonville, Twin Rocks, Cummings, Leggett Valley, Rockport, Redwood Flat, Andersonia, Richardson's Grove and Piercey.

The complaint further charges that the defendant has, without authority of this Commission abandoned the service authorized by Decisions Nos. 20188 and 20239, dated August 31, 1928 and September 21, 1928, respectively, on Application No. 14687.

A public hearing was had before Examiner Johnson on March 8, 1933, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows: Defendant A. Harwood testified that he was forced to quit operation of such service on October 25, 1932, due to unregulated truck competition; that he began operating again on January 25, 1933, because of a subsidy furnished by another carrier;

but that since resuming such operation, he had not carried any consequential amount of freight or express. Harwood testified that the unregulated carriers had all the business and that the shippers will not support a carrier starting at Willits as the unregulated carrier rates from San Francisco right through to this territory are cheaper than the rail rates to Willits alone; so shippers are using the through service, and the witness stated that he could frequently carry what little freight there was on the front seat of his limousine. Defendant further stated that he had used a coupe or limousine instead of his truck on many of the trips since January 25, 1933, and sometimes there was nothing to haul at all. Defendant definitely admitted abandoning operations for a ninety day period from October 25, 1932, to January 25, 1933, and stated that he would not now be in operation if another carrier was not guaranteeing him a definite amount for each trip whether he operated with a cargo or not. The testimony clearly showed an abandonment by the testimony of the defendant, without the necessity of calling another witness and fully justifies finding as a fact by this Commission that defendant did abandon his operating rights. A similar case was recently decided by the Commission in Decision No. 25645 in Case 3315, (Frank Davies vs. Alpha Hardware & Supply Co.)

#### O R D E R

This proceeding having been duly heard and submitted, full investigation of the matters involved having been had, and basing this order on the finding of facts and conclusions contained in the opinion,

IT IS HEREBY ORDERED that the operative rights heretofore granted to A. Harwood by Decisions Nos. 20188 and 20239, on Application No. 14687 be and they hereby are revoked and annulled.

IT IS HEREBY FURTHER ORDERED that A. Harwood be and he hereby is ordered to cease and desist from operating as a common carrier of persons and property between Willits and Garberville

end intermediate points including Rockport and Branscom's.

IT IS HEREBY FURTHER ORDERED that the tariffs and time tables now on file with this Commission in the name of A. Harwood covering the rights herein revoked and annulled, be and the same hereby are canceled.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of

May 1933.

C. L. Leary  
Leon Outley  
M. J. Lee  
M. B. Harris  
Robert L. Brown  
Commissioners.