

26436

Decision No. 60-500

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CERTIFICATED HIGHWAY CARRIERS, INC.,

Complainant,

vs.

G. L. OLDS,

Defendant.

Case No. 3591.

H. J. Bischoff for complainant.
Wallace P. Rouse for defendant.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Certificated Highway Carriers, Inc., a corporation, herein complains that G. L. Olds is operating as a transportation company over the highways of this State and that said defendant has no certificate of public convenience and necessity so to do, nor any prescriptive or other right for such operation, which is being conducted in violation of Chapter 213, Statutes of 1917.

A public hearing on this complaint was held before Examiner Handford at Indio. The matter was to be submitted on briefs to be filed by interested counsel. No briefs have been filed.

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

Witnesses testified that they had used the truck service of defendant in the shipping of farm products from points in the Coachella Valley to Los Angeles, paying compensation therefor, and being able to secure daily service during the vegetable season. This business has been solicited by the defendant and at all times the service has been available to shippers.

Defendant, G. L. Olds, testifying as a witness called by complainant, stated that in the year 1917 he was hauling from the Imperial Valley to Los Angeles. Witness operated one truck and since October 1932 has operated daily service from points in the Coachella Valley to Los Angeles. Witness farms about 60 acres and transports the products, together with those of his neighbors and others to the Los Angeles markets. Witness now serves from 15 to 20 shippers.

It is apparent from the record herein that defendant, G. L. Olds, has violated the terms provided by Chapter 213, Statutes of 1917, by transporting shipments over the public highways for compensation, between points in the Coachella Valley and Los Angeles, and that said defendant has no certificate of public convenience and necessity issued by this Commission authorizing such transportation nor any prescriptive or other rights so to do.

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 effects 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 Company vs. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wermuth vs. Stamer, 36 C.R.C. 458; Pioneer Express Co. vs. 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 this 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 G. L. Olds 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 Coachella Valley points and Los Angeles, and without a certificate of public convenience and necessity or prior right authorizing such operation.

Based upon the finding herein and the opinion which precedes this order,

IT IS HEREBY ORDERED that G. L. Olds shall cease and desist, directly or indirectly, or by any subterfuge or device, from continuing such operation.

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 G. L. Olds, that he cause certified copies thereof to be mailed to the District Attorneys of Los Angeles, San Bernardino and Riverside counties, to the Board of Public Utilities and Transportation of the City of Los Angeles and 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 16th day
of October, 1933.

C. J. [unclear]
Leon [unclear]

M. J. [unclear]

M. B. [unclear]

[unclear]

Commissioners.