

Decision No. 27971

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA INTERURBAN MOTOR
TRANSPORTATION ASSOCIATION,

Complainant,

vs.

SEABOARD TRANSPORTATION COMPANY,
a corporation, and STOR DOR
EXPRESS COMPANY, a corporation,

Defendants.

Case No. 3171

ORIGINAL

Phil Jacobson, for Complainant.

William G. Junge, and Thelen & Marris, by
Max Thelen, for Defendants.

H. J. Bischoff, interested party.

WEITSELL, Commissioner -

O P I N I O N

Complainant herein, an association of certificated truck operators in California, invoked the jurisdiction of this Commission to (a) revoke the operative rights of Seaboard Transportation Company and punish its officers for violation of tariff on file with the Commission, and (b) issue an order requiring Stor Dor Express Company, a corporation, to cease and desist transporting property between Los Angeles and adjacent points and Los Angeles harbor.

Defendants answered with general and specific denial and the matter, after hearing, was submitted upon briefs .

Public hearings were conducted at Los Angeles.

Complainant attempted to show that Seaboard Transportation Company, a fictitious name for the transportation business conducted by W. A. Junge between Los Angeles and Los Angeles harbor under certificate from this Commission, had violated its rate structure on file with the Commission indirectly through the operations conducted by Stor Dor Express Company, a corpor-

ation, between the same termini. Complainant attempted to show that Stor Dor was incorporated as an instrumentality to transport traffic between termini at lower rates than the tariff of Seaboard Transportation Company and in that alleged subterfuge created a violation of its rate structure justifying punishment of its officers and revocation of its authority.

The proof produced by defendant is satisfying that transportation between termini, and physically of the same character, was conducted by both Seaboard Transportation Company and Stor Dor Express Company. While it possesses separate equipment, Seaboard did lease additional equipment to Stor Dor at times. It is contended that by this device Seaboard was enabled to transact certain transportation at low and non-compensatory rates, to the injury of perhaps more than a score of certificated carriers between the same termini. There is no question but what the proof sustains the alleged fact that the transportation was conducted by both organizations on a separate basis; that one was conducted without certificate of this Commission and that its rates were not the rates authorized for Seaboard Transportation Company. Seaboard, however, is not a corporation but is solely owned by W. A. Junge. Stor Dor, the corporation, admittedly was created by Junge for a separate and distinct purpose and this purpose is made the defense to the proceeding.

Mr. Junge explained that the corporation was formed to handle only such business as moves in interstate commerce, or commerce with foreign nations; that such shipments are segregated at both terminals from the ordinary intrastate shipments, the interstate being handled by Stor Dor and the intrastate by Seaboard, each under its own tariffs. So far as I can ascertain, the record presents no different situation. The segregated interstate business was handled by Stor Dor and it is all that it handles. The only business handled by Seaboard, so far as

the same record is concerned, does not disclose any violations of tariff. Hence I cannot find that the creation and operation of Stor Dor constituted a device to violate the tariffs of Seaboard, nor that punishment or revocation in the premises is at all justified.

All the shipments shown to have been conducted by Stor Dor were interstate shipments, and in view of the decision of the California Supreme Court in Meyers v. Railroad Commission (1933, 216 Cal. 316), the corporation did not require from this Commission a certificate authorizing its operation. There is nothing in the record sufficient to base any judgment of wrong doing on the part of either this defendant or Seaboard Transportation Company, and therefore the Commission is left with no alternative except to dismiss the complaint.

I propose the following form of order:

O R D E R

The complaint and answer having brought the above entitled matter to issue, public hearings having been held, the matter having been duly submitted,

IT IS HEREBY ORDERED that the complaint herein be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of August, 1934.

Leon C. White

W. H. Quinn

M. Blaine

Commissioners.