

Decision No. 27319

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,)

Complainant,)

vs.)

C. L. CONROW, doing business as Arroyo Grande Truck Company, First Doe, Second Doe, Third Doe, Fourth Doe, Fifth Doe, First Doe Corporation, Second Doe Corporation, Third Doe Corporation, Fourth Doe Corporation, Fifth Doe Corporation.)

Defendants.)

Case No. 3561

Reginald L. Vaughan, Scott Elder, for Complainant.
Eorance M. Street, for defendants.

BY THE COMMISSION -

O P I N I O N

By complaint filed on September 26, 1933, complainant charges defendant with unlawful common carrier operations by auto truck between Arroyo Grande etc. and San Francisco, Oakland, etc.

Public hearings were had before Examiner Handford on November 15 and 20, 1933, on which latter date the case was submitted.

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

Defendant Conrow operates under the name Arroyo Grande Truck Co., with headquarters at Arroyo Grande. The testimony presented by complainant refers to movements of products of agriculture and horticulture only and during the season of April, May and June, 1933, though there were one or two shipments in July. The cargoes originate in the fields and orchards at Oceano, Pismo Beach, Arroyo Grande and San Luis Obispo. One shipment originated at Carpintera and one consignment from Mecca in Imperial valley.

Witnesses testified that defendant had solicited the business and had been served by defendant for as many as three years. No written contracts exist. The compensation was paid by the consignee. Transportation bills made out by defendant (Exhibits Nos. 1 to 12), show the names of the consignors and apparently consignment to defendant was made at Arroyo Grande and the movements made between that point and San Francisco and Oakland.

Twelve commission houses, of which four were in Oakland and eight in San Francisco, through witnesses and waybills, established the fact that defendant had made deliveries from the Arroyo Grande consignors. The rates appear uniform. Only empty containers were returned by defendant's trucks.

Defendant offered no testimony in his own behalf. He was not called to the stand by complainant. The palpable fact is that defendant did offer service, solicit business and did perform service for all who tendered shipments between Arroyo Grande and San Francisco and Oakland for compensation and as a common carrier of fruit and field produce. He possesses no certificate or other authority to do so.

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. 407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck 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 C. L. Conrow is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Act (Chapter 213, Statutes 1917, as amended), with common carrier status between Arroyo Grande and San Francisco and Oakland 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 C. L. Conrow 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 C.L.Conrow; that he cause certified copies thereof to be mailed to the District Attorneys of San Luis Obispo, Kings, Alameda, Monterey, Santa Cruz, Santa Clara, San Mateo, and San Francisco 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.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaint herein be dismissed.

The effective date of this order shall be twenty (20) days after the date of service upon defendant.

Dated at San Francisco, California, this 11th day of September, 1934.

Leon C. White
W. B. Davis
W. J. [unclear]