

Decision No. 27753

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a
Corporation,

Complainant,

vs.

GULARTE TRUCKING COMPANY, a
Corporation, FRANK GULARTE,
ANTONE OLIVERA, MANUEL F. MADRUGA,
and FRANK GULARTE, doing busi-
ness under the fictitious name and
style of Gularte Trucking Co., Inc.,
First Doe to Fifth Doe, inclusive,
and First Doe Corporation to Fifth
Doe Corporation, inclusive,

Defendants.

ORIGINAL

Case No. 3589

R. L. Vaughan and Scott Elder
for Complainant

Fred A. Shaeffer & David F. Hart,
L. M. Phillips, for Defendants.

BY THE COMMISSION:

O P I N I O N

By complaint filed on May 25, 1933, Complainant charges Gularte Trucking Company, a corporation, Frank Gularte, Antone Olivera, Manuel F. Madruga and Frank Gularte, doing business under the fictitious name and style of Gularte Trucking Co., Inc., with unlawful common carrier operations between Guadalupe and Santa Maria on the one hand and Los Angeles, Los Angeles Harbor,

Vernon and contiguous territory on the other hand, serving also as intermediate points various cities, towns, communities and other points en route.

Public hearings were had before Examiner Johnson on August 24, 1934, at Santa Maria and September 24 and November 19, 1934, at Los Angeles, and at Santa Maria on February 5, 1935, on which latter date the case was submitted.

The facts as developed at the hearings were as follows:

A large number of witnesses established the public carrier service operated by the defendant corporation herein. This corporation is now defunct, having failed to pay its corporation fees and gone through bankruptcy. Nevertheless, it was finally stipulated that an order to cease and desist should be entered against the defendant corporation. Frank Gularte was the particular individual operating the public carrier service under the corporate name of Gularte Trucking Company.

A cease and desist order should issue against the Gularte Trucking Company, a corporation, and Frank Gularte, as an individual. As to the other defendants no proof was offered and the order should dismiss them as defendants.

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. 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 & 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 Transp. Act (Stats. 1917, Chap. 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. 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 Frank Gularte has been operating under the name of Gularte Trucking Company, a corporation, up to the time said corporation became defunct, as a transportation company, as defined in Sec. 1, Subdivision (c) of the Auto Truck Transportation Act (Chap. 213, Stats. 1917, as amended), with common carrier status between Guadalupe and Santa Maria on the one hand, and Los Angeles, Los Angeles Harbor, Vernon and contiguous territory on the other hand, serving also as intermediate points various cities, towns, communities and other points en route, 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 Frank Gularte and Gularte Trucking Company, a corporation, shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operations. The complaint in so far as it refers to the remaining defendants herein is hereby dismissed.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Frank Gularte, that he cause certified copies to be mailed to the District Attorneys of Santa Barbara, Ventura and Los Angeles counties and to the Board of Public Utilities and Transportation 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 18 day of February, 1935.

Leon C. Williams
W. B. Linn
W. B. Linn
Matthew Linn
Frank R. Linn
Commissioners.