

Decision No. 27921

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC.,
a corporation,

Complainant,

vs.

E. H. RICE, E. H. RICE, doing business
under the fictitious name and style of
Merchants Stor-Dor Freight & Express,
MERCHANTS STOR-DOR FREIGHT & EXPRESS,
a co-partnership, 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. 3772.

ORIGINAL

REGULATED CARRIERS, INC.,
a corporation,

Complainant,

vs.

E. M. DUFFEY and E. M. DUFFEY doing
business under the fictitious name and
style of Stor-Dor Forwarders, FIRST DOE,
SECOND DOE, THIRD DOE, FOURTE DOE,
FIFTH DOE, FIRST DOE CORPORATION, SECOND
DOE CORPORATION, THIRD DOE CORPORATION,
FOURTE DOE CORPORATION, FIFTH DOE
CORPORATION,

Defendants.

Case No. 3813.

R. L. Vaughan and Scott Elder for complainant.

A. S. Groocox, for Board of Public Utilities and
Transportation of the City of Los Angeles,
interested party.

BY THE COMMISSION:

O P I N I O N

The Regulated Carriers, Inc., a corporation, in these
proceedings seeks an order requiring defendants to cease and desist

common carrier operations for the transportation of property over the public highways for compensation between San Francisco, Oakland, Emeryville, Berkeley Richmond, Alameda and San Leandro on the one hand, and Los Angeles, Vernon and Huntington Park on the other, serving also various intermediate points.

The two proceedings were consolidated and will be disposed of by one opinion and order.

Public hearings were held before Examiner Geary at San Francisco February 7 and at Los Angeles March 27, 1935, and the cases submitted.

Formal services were made by registered mail, in the usual manner, upon defendants in both proceedings. Later special personal services were executed, as of December 16, 1934, on E. H. Rice (Case 3772) and on February 20, 1935, on E. M. Duffey (Case 3813), both at Los Angeles, California.

Neither of the defendants made formal answers to the complaints and they failed to appear at the hearings either in person or by attorney, although they had due and proper notice of the time and place.

Under date of December 29, 1934, E. H. Rice (Case No. 3772) advised by letter that he had ceased operations and by letter dated February 23, 1935, E. M. Duffy (Case No. 3813) served a similar notice.

Complainant made an exhaustive presentation against the defendants by the testimony of some 20 shipper witnesses, 2 investigators, one of them a representative of the City of Los Angeles, and by the filing of 26 exhibits.

The record shows that these defendants have for a number of years been soliciting freight tonnage, almost regardless of the commodities, and arranging for its transportation principally between Los Angeles and San Francisco including the intermediate points. They have operated under different fictitious names, viz:

Merchants Stor-Dor Freight & Express, United States Shippers Assn., at present as the Stor-Dor Forwarders, and at all times and regardless of the name assumed the Los Angeles General Offices have been and now are at No. 426 South Alameda Street, with branch offices at different places in San Francisco.

An investigation made by qualified representatives of the City of Los Angeles, dated February 28, 1935, (Exhibit No. 26) showed that a truck operated for the Stor-Dor Forwarders, under the supervision of Mrs. Maud Rice, left Los Angeles at 8:45 P.M. on that day for San Francisco, loaded with 34 different consignments destined to San Francisco, Monterey, San Jose, Oakland and Fresno.

Defendants have printed documents such as bills of lading, freight bills, monthly statements, solicitors' business cards, etc. They provide cargo insurance for the benefit of their patrons, pay loss and damage claims, but do not enter into any contracts.

As far as this record reveals, defendants own no trucks the lading being hauled by uncertificated truckers selected by defendants and their compensation for the hauling is apparently on a percentage basis. Shipments are accepted in any quantity lots.

No good purpose would be served by analyzing the several hundred shipping documents included in the 26 exhibits, for they conclusively prove that defendants have been, for the past several years, and now are operating and managing auto trucks in the business of the transportation of property as common carriers for compensation, over the public highways between fixed termini over regular routes, to-wit: between San Francisco, Oakland, Emeryville, Berkeley, Richmond, Alameda and San Leandro on the one hand, and Los Angeles, Vernon, Huntington Park and intermediate points on the other. These operations have been rendered under different

fictitious names and are in violation of Chapter 213, Statutes 1917 and amendments thereto.

Notwithstanding the letters sent to this Commission by E. E. Rice and E. M. Duffy, heretofore referred to, the instant record shows that the scheduled truck operations have been continuous, and today are performed under the fictitious name of the Stor-Dor Forwarders, apparently supervised by Mrs. Maud Rice whose maiden name was Duffy.

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 Transportation 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.

ORDER

Public hearings having been had in the above entitled matters,

IT IS HEREBY FOUND THAT E. H. Rice, and E. H. Rice doing business under the fictitious name and style of Merchants Stor-Dor Freight and Express (Case No.3772), and E. M. Duffey, and E. M. Duffey doing business under the fictitious name and style of Stor-Dor Forwarders (Case No.3813), are operating as transportation companies, as defined in Section 1, (c) of the Auto Truck Transportation Act, Statutes 1917, Chapter 213, as amended, with common carrier status, between fixed termini and over regular routes and public highways, between San Francisco, Oakland, Emeryville, Berkeley, Richmond, Alameda and San Leandro, and certain intermediate points between or in the vicinity of San Francisco, Oakland, Emeryville, Berkeley, Richmond, Alameda and San Leandro on the one hand, and Los Angeles, Vernon, Huntington Park and intermediate points, and certain intermediate points between or in the vicinity of Los Angeles, Vernon, Huntington Park and intermediate points on the other hand, without having obtained a certificate or certificates of public convenience and necessity or without having any prior operative right for any or all of such operations.

Based upon the Opinion and the findings herein,

IT IS HEREBY ORDERED that each and all of the following designated transportation companies, to wit: E. H. Rice, and E. H. Rice doing business under the fictitious name and style of Merchants Store-Dorr Freight and Express; and E. M. Duffey, and E. M. Duffey doing business under the fictitious name and style of Stor-Dor Forwarders, shall cease and desist jointly and severally, directly or indirectly, or by any subterfuge or device from continuing any or all of such operations, hereinabove set forth, and more specifically shall cease and desist, jointly and severally, directly or indirectly, or by any subterfuge or device from operating as a common carrier between any or all of the following points, to wit: San Francisco, Oakland, Emeryville, Berkeley, Richmond, Alameda and San Leandro, and certain intermediate points between or in the vicinity of San Francisco,

Oakland, Emeryville, Berkeley, Richmond, Alameda and San Leandro on the one hand, and any or all of the following points, to wit: Los Angeles, Vernon, Huntington Park and intermediate points, and certain intermediate points between or in the vicinity of Los Angeles, Vernon, Huntington Park and intermediate points on the other hand, and shall similarly cease and desist, jointly and severally, from operating as a common carrier between any two or more of the points hereinabove specified and found as being places between which the said E. H. Rice, and E. H. Rice doing business under the fictitious name and style of Merchants Stor-Dor Freight and Express; and E. M. Duffey, and E. M. Duffey doing business under the fictitious name and style of Stor-Dor Forwarders, are now operating, unless and until a certificate of public convenience and necessity shall have been obtained from this Commission.

The Secretary of the Commission is directed to cause personal service of a certified copy of this decision to be made upon E. H. Rice and E. M. Duffey.

This order shall become effective twenty (20) days after the date of personal service.

Dated at San Francisco, California, this 20th day of April, 1935.

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M. A. Carr

M. B. Harris

W. H. Jones

Frank R. DeWitt

6. COMMISSIONERS.