

Decision No. 30610

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CERTIFICATED HIGHWAY CARRIERS, INC.,  
for an order of the Railroad Commission  
of the State of California instituting  
an investigation of the rates of charges  
for the transportation of freight by  
transportation companies transporting  
property by truck over the public highways  
between Los Angeles and Los Angeles Harbor  
points and between Los Angeles and Long  
Beach Harbor points.

)  
)  
) Application No.  
19053  
)  
)  
)

—  
In the Matter of the Investigation on the  
Commission's own motion into the rates,  
rules, regulations and practices of common  
carriers of freight by motor truck operating  
between Los Angeles Harbor and the City of  
Los Angeles and adjacent points where such  
operations are those of transportation com-  
panies as said term is used in the Auto  
Truck Act (Stats. 1917, Ch. 213, as amended),  
and in the California Constitution Article  
III, Section 22 thereof.

)  
)  
)  
) Case No. 3685  
)  
)

BY THE COMMISSION:

ORDER REVOKING PRIOR ORDERS

The sole question involved in these proceedings was whether or not the Commission possessed the power to regulate the rates, rules, etc. of motor carriers transporting property between Los Angeles and the harbors and engaged exclusively in interstate commerce. <sup>(1)</sup> Decision No. 27377 (September 17, 1934) ordered that such carriers file their rates, rules and regulations, holding that the Commission had jurisdiction to regulate rates in the absence of federal regulation. In February of 1935 that decision was set aside and the proceedings re-opened for further hearing for the introduction of additional evidence

(1) In Meyers v. Railroad Commission, 218 Cal. 316, it had previously been held that to require certification of such carriers was a burden on interstate commerce.

to show that Congress had assumed control over such carriers through the Code of Fair Competition for the trucking industry, promulgated under the authority of the National Industrial Recovery Act.

Following the further hearing, the Recovery Act was held to be unconstitutional in Schechter v. United States, 295 U.S. 495. Shortly thereafter, the Commission issued Decision No. 28160, which re-adopted and affirmed the earlier decision, and ordered common carrier truckers between Los Angeles and the harbors of Long Beach and Los Angeles to file their rates. A number of such carriers thereupon petitioned the California Supreme Court for a writ of review. (Adley et al. v. Railroad Commission, L. A. No. 15514.) The petitioners alleged in part that the state had been divested of authority by the enactment of the Motor Carrier Act of 1935 (49 U. S. C. A. 301 etc.), which vested jurisdiction over interstate or foreign motor carriers in the Interstate Commerce Commission.

Section 203(b)(8) of the Motor Carrier Act (49 U.S.C.A. 303(b)(8)), however, provides in part that unless and to the extent that the Interstate Commerce Commission shall find that application of the act "is necessary to carry out the policy of Congress," the act shall not apply to transportation "in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, \* \* \*." Thus such operations between the port and the main industrial and business sections of Los Angeles were exempt from regulation by the Interstate Commerce Commission in the absence of action by that body removing the exemption.

Submission of the Adley case before the California Supreme Court was delayed because of the pendency of a proceeding before the Interstate Commerce Commission to determine whether that Commission

should exercise its authority to remove the exemption heretofore mentioned. (Re Los Angeles, California, Commercial Zone, No. M.C.-C-4.)

On November 9, 1937 the federal commission rendered its decision, stating in part as follows:

"Because of the distance between the port and the main business and industrial sections of Los Angeles, and because of the nature of the transportation, the movement of property to and from the port is not local but inter-city in character, and should be regulated under all provisions of the act." (Motor Carrier Act.)

"We find that the removal of the exemption provided in section 203(b)(8) respecting transportation by motor vehicle between the Los Angeles harbor districts and Long Beach on the one hand, and other points within the considered area, on the other, is necessary to carry out the policy of Congress enunciated in section 2."

To effect the removal of the exemption the order designated two zones, the Los Angeles Commercial Zone and the Los Angeles Harbor Commercial Zone, and provided that the exemption would continue to apply to transportation within each zone, but not to transportation between zones.

The Interstate Commerce Commission has thus assumed jurisdiction over transportation of the nature involved in this proceeding, and its order has now become final.

Good cause appearing, IT IS ORDERED that Decisions Nos. 27377 and 28160 are vacated and annulled, and the above proceedings are hereby dismissed.

Dated, San Francisco, California, ~~January~~<sup>February</sup> 7, 1938.





  
Commissioners