

Decision No. 31339

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation,
on the Commission's own motion, into
the operations, rates, charges, con-
tracts, and practices, or any of them,
of FRED DEREMO, doing business as
COAST DISPATCH.

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)
) ORIGINAL
) Case No. 4319
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ORDER DENYING PETITION FOR MODIFICATION

Respondent filed a petition for modification of Decision No. 31240 in this proceeding by elimination of the provision in the order suspending his operating permit for fifteen (15) days. Oral argument of the petition before the Commission en banc was set for September 30, 1938, in San Francisco. Immediately preceding the time set for such argument, however, the Commission was advised that respondent's counsel would be unable to appear; the Commission then took the petition under consideration.

The petition did not dispute the propriety of the finding that respondent was a highway common carrier or of the issuance of the cease and desist order, but urged that the permit suspension is an unreasonably severe penalty, as the line of demarcation between a highway common carrier and a highway contract carrier is difficult to draw, and respondent was not, it is claimed, a wilful or persistent violator and had discontinued his operations between San Francisco and Los Angeles.

There is nothing in the record, however, to indicate that respondent had made any attempt to limit his operations to those

of a highway contract carrier, for it appears that while his list of contracts filed in accordance with the rules of the Commission showed 19 shippers, he was actually serving some 66 others who were not listed. It hardly seems possible that respondent could have overstepped the line of demarcation so widely if he had made any effort to locate it.

Moreover, this is not, as the petition for modification intimates, respondent's first offense. In Decision No. 27677, decided January 14, 1935, in Case No. 3879, Regulated Carriers v. C. L. Buck, Fred Deremo, et al, the Commission found that respondent had been operating illegally as a highway common carrier between Oakland and Sacramento and ordered him to cease and desist from such operations.

In the light of these circumstances, the petition for modification should be denied.

O R D E R

Good cause appearing,

IT IS HEREBY ORDERED that the petition for modification be and it is hereby denied.

Dated at ^{Los Angeles}~~San Francisco~~, California, this 3rd day of October, 1938.

Raymond A. Kelley
Leon A. Kelley
Frank J. Kelley
Ray A. Kelley
Commissioners