

Decision No. 35718

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on)
the Commission's own motion into the)
highway common carrier operations,)
rates, charges, contracts and practices)
of D. B. JORGENSEN, doing business as)
Blythe-Palo Verde Truck Line.)

Case No. 4638

D. B. JORGENSEN, respondent, in propria
persona.

A. D. MATLOCK, for Western Truck Lines,
Ltd., interested party.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Commission instituted upon its own motion an investigation into the operations of D.B. Jorgenson, doing business as Blythe-Palo Verde Truck Line (referred to subsequently as the respondent), who now operates as a highway common carrier, as defined by section 2-3/4, Public Utilities Act, between Blythe and Palo Verde, via Ripley. A public hearing was had before Examiner Austin at Blythe, on June 16, 1942, when the matter was submitted. The Commission's Division of Investigation was represented by counsel, and respondent appeared in propria persona. Evidence on behalf of the Division was introduced, and respondent voluntarily testified in his own behalf.

The order instituting this investigation presents two issues, viz.: (a) whether respondent, since November 1, 1940, has failed to provide and keep in effect adequate insurance protection against liability for personal injuries, including death resulting therefrom, and for property damage, as required by General Order No. 91; and (b) whether respondent has failed to file with the

Commission quarterly reports of his gross operating revenue and to pay the fees accruing thereon, as required by section 1, Transportation Rate Fund Act (Statutes 1935, Chapter 683, as amended) for the period extending from July 1, 1940 to May 5, 1942, when this proceeding was commenced.

The evidence discloses that within the periods mentioned, respondent neglected to maintain the required insurance protection and that he also failed to file quarterly reports of gross operating revenue and to pay the fees due thereon. This showing was presented on behalf of the Division of Investigation through the testimony of Floyd McColl, Supervising Auditor.

For many months respondent failed to keep continuously in effect insurance or other protection against liability imposed by law flowing from personal bodily injuries (including death resulting therefrom) and from property damage occurring in the course of his operations. The insurance policies which had been filed were permitted to lapse on two occasions. Following the cancellation of respondent's policies by the insurance carriers, no insurance protection was in force during the periods November 11 to 15, 1940, inclusive, and March 12 to June 24, 1941, inclusive. Since August 27, 1941, when the policy last filed by respondent was cancelled, he neglected to maintain any insurance protection whatsoever. Letters from the Commission's staff remained unanswered, and admonitions by the Commission's Inspector, who personally called upon respondent, were ignored.

Respondent's failure to file quarterly reports of gross operating revenue or to pay the fees due thereon, as required by the Transportation Rate Fund Act, was also established. At the instance of the Commission's Inspector, respondent submitted a report covering his gross revenue for the period July 1 to

September 30, 1941, from which it appears that the fee of one-quarter of one per cent due thereon amounted to \$13.75. This he has neglected to pay. He also is delinquent in filing reports covering gross revenues for the periods October 1, 1941 to December 31, 1941 and January 1, 1942 to March 31, 1942.

From respondent's testimony it appears that since his acquisition of the line in June 1940,⁽¹⁾ he has operated regularly between Elythe and Palo Verde, serving also Ripley, an intermediate point. Aside from Elythe, the communities served are sparsely populated, hence the volume of the traffic has been small. At Palo Verde there is but one general store; Ripley is somewhat larger. A few farmers also are served directly. Respondent, it appears, has transported the traffic of his largest shipper, a wholesale merchant at Elythe, at rates differing from those published in his filed tariff, this having been accomplished under an oral agreement which specified a rate of 10 cents per package, regardless of size, commodity or weight. For these shipments respondent failed to issue bills of lading or other shipping documents. This arrangement, of course, is illegal to the extent that it may have contemplated the transportation of freight at charges deviating from the published rates.

Because of respondent's failure to maintain insurance protection, and to file quarterly reports of gross income and pay the fees due thereon, his certificate will be revoked, and our order will so provide.

(1) Pursuant to Decision No. 33248, rendered June 25, 1940, in Application No. 23524, the operative right in question was transferred by G. E. Covington to respondent Jorgenson.

O R D E R

Investigation having been instituted as above-entitled; a public hearing having been had; the matter having been duly submitted; and the Commission being now fully advised:

IT IS ORDERED:

(1) That the certificate of public convenience and necessity now held by respondent, and heretofore acquired by him from G. E. Covington pursuant to Decision No. 33248, rendered June 25, 1940, in Application No. 23524, authorizing operation as a highway common carrier, as defined by section 2-3/4, Public Utilities Act, between Blythe and Palo Verde and intermediate points via Ripley, be and it hereby is revoked.

(2) That any and all tariffs and time schedules heretofore filed with the Commission by respondent D. B. Jorgenson, and now in effect, relating to said operations be and they hereby are, and each of them is, cancelled and annulled.

The effective date of this order shall be **twenty (20) days** from the date hereof.

Dated at San Francisco, California, this 1st day of September, 1942.

Justin J. Casper

Francis D. Hoare

COMMISSIONERS