

ORIGINAL

Decision No. 42057

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation  
into the rates, rules, regulations,  
charges, allowances and practices  
of all common carriers, highway  
carriers and city carriers relating  
to the transportation of property.

Case No. 4808

Appearances

- E. R. Chapman, for Golden State Company, Ltd.
- R. E. Wedekind and M. G. Smith, for Southern Pacific Company and Pacific Motor Trucking Company
- Charles F. MacGregor, in propria persona
- A. Larsson, for Larsson Traffic Service
- S. A. Moore, for Permanente Cement Company
- B. F. Bolling, for Flintkote Company
- W. G. O'Barr, for Los Angeles Chamber of Commerce
- Arlo D. Poe, for Motor Truck Association of Southern California
- Ralph Crandall, for Los Angeles Traffic Managers Conference
- J. R. Naddeo, for Sears Roebuck and Company

SUPPLEMENTAL OPINION

Regulations governing the handling of C.O.D. (collect on delivery) shipments by highway common carriers and passenger stage corporations were established, effective June 30, 1934, by General Order No. 84A. Somewhat similar but less extensive regulations were subsequently prescribed for other for-hire carriers in various minimum rate proceedings. Public hearings were scheduled in Case No. 4808 for the receipt of evidence relative to C.O.D. requirements for the purpose of determining the extent to which, if at all, existing regulations should be revised. These hearings were had at San Francisco on August 24, 1948, and at Los Angeles on August 31, 1948, before Examiner Mulgrew.

Under General Order No. 84A, highway common carriers and passenger stage corporations elect whether or not they will handle C.O.D. shipments. Those electing to handle such shipments are required to remit collections within ten days. They are also required to file a \$1,000 surety bond. Minimum rate orders applicable to transportation by these and other for-hire carriers, like General Order 84A, require that collections be remitted within ten days. The minimum rate orders, however, do not require that a bond be filed. Regulations of general application have not been established for traffic not subject to minimum rates.

At the hearings, a member of the Commission's staff testified that many complaints had been received against for-hire carriers rendering C.O.D. service in connection with their operations over the public highways. He said that it had been developed that carriers had not been remitting C.O.D. collections promptly; that in some cases they had failed to remit them at all; that certain carriers had used C.O.D. money to meet their expenses; and that others had ceased operating without clearing up their C.O.D. obligations.

The staff witness pointed out that a surety bond is now required only in connection with transportation over the lines of highway common carriers and passenger stage corporations. In order to provide necessary protection for shippers using other C.O.D. service, he recommended that the bond requirement be extended to transportation by all for-hire carriers operating over public highways, including express corporations and freight forwarders which generally use the facilities of highway carriers. The witness stated that Railway Express Agency, Inc. primarily used rail facilities, that no complaints involving its C.O.D. operations had recently been

made, and that no present need existed for extending the bonding requirements to such operations.

In regard to the amount of the bond, the witness called attention to the fact that it had been fixed as \$1,000 in 1934. This sum, he said, was inadequate in the face of current prices. There had been various complaints, the witness stated, involving amounts exceeding \$1,000 and ranging upward to \$2,500 and more. He recommended that the amount of the bond be increased to \$2,500. He stated on cross-examination that current prices were about 85 per cent higher than those obtaining when the \$1,000 requirement was established.

The staff witness also recommended adoption of further regulations under which the bond could not be cancelled on less than thirty days' notice to the Commission; the name of a carrier's surety would be supplied by the Commission upon request for such information; the ten-day period for remittance of C.O.D. collections would be made applicable to all transportation over the public highways by for-hire carriers; and all carriers would be directed to inform the Commission whether or not they elect to handle C.O.D. shipments. Thus, he stated, necessary safeguards in connection with C.O.D. transactions would be established and at the same time desirable uniformity in carrier practices would be achieved. Common carrier tariffs and the minimum rate tariffs issued by the Commission should, according to the witness, contain provisions which would enable shippers to determine, in advance of shipment, the conditions under which C.O.D. consignments would be handled. He submitted a proposed revised general order and a proposed amendment of minimum rate tariffs setting forth the recommended requirements.

In general, shipper and carrier organizations and individual shippers and carriers supported the recommendations of the staff witness. Both shippers and carriers strongly advocated the recommended inclusion of the full C.O.D. requirements in minimum rate tariffs. In addition, a carrier association urged that these tariff rules provide that C.O.D. shipments may not be handled by radial highway common, highway contract or city carriers unless and until the required bond is filed.

Certain of the shipper interests expressed some concern about the proposal that \$2,500 be fixed as the amount of the bond. They urged that the required bond be low enough so that it will not result in carriers being unable or unwilling to provide necessary C.O.D. service. One shipper organization suggested that the sum required for the bond vary according to the amount of business handled by the carrier and that, if carriers limit their operations to transportation for one or two shippers, provision be made for exemption from the bonding requirement in proper cases. The higher expense of securing the necessary bond, it claimed, should not be such that it would require increased rates for C.O.D. service. A shipper representative contended that a bond of from \$1,500 to \$2,000 would be sufficient for ordinary transactions. He said that a bond in some such amount would tend to insure adequate service being available without requiring increased charges for the service. Other means of protection are available to shippers, he asserted, and they can be used when there are larger sums of money involved.

The carrier interests participating in the hearings suggested the following requirements: (1) that, when more than one operative authority is held by a carrier and C.O.D. transactions are

handled in connection with all such operations, the bond show that it covers all operations; (2) that, when C.O.D. service is not provided in connection with all operations, the bond specify which operations are covered and which are not; and (3) that, when additional operative authority is secured after a bond has been filed, the coverage or noncoverage of such operations be established by revision of the bond.

It is not disputed, and the record shows, that extension of bonding requirements to all for-hire carriers generally operating over the public highways is desirable and necessary. It is desirable also that these requirements be made to apply to all carriers in the classes involved. No convincing reason appears for the exclusion of the one express company, Railway Express Agency, Inc. As to the amount of the required bond, it has been established that the sum of \$1,000 is inadequate. On the other hand, the \$2,500 figure recommended by the staff witness appears higher than necessary to cover general requirements as disclosed by this record. In view of these considerations, it appears that \$2,000 is a reasonable and sufficient amount for the bond in question and should accordingly be prescribed. Should there be special cases in which relief from the general bonding requirements is deemed appropriate, interested parties may bring them to the Commission's attention. Recommended regulations covering cancellation of bonds, specific reference to the operative authorities covered thereby, the making public the name of the carrier's surety upon request, the extending of the ten-day regulations to operations over the public highways not now covered by such regulations, and the inclusion of full C.O.D. regulations in tariffs, all appear to be reasonable, proper, and necessary requirements and should, therefore, be adopted.

Upon consideration of all the facts and circumstances of record, we are of the opinion and hereby find that the proposed

revisions and extensions of C.O.D. (collect on delivery) regulations have been justified to the extent indicated in the foregoing paragraph and as provided by the order herein; and that in all other respects, the proposals advanced have not been justified. Procedures established for the handling and distribution of minimum rate tariffs require that the changes in tariff provisions involved be made by separate orders revising these tariffs. Such orders are being entered.

ORDER

Based on the evidence of record and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that General Order No. 84B, attached hereto and by this reference made a part hereof, be and it is hereby adopted; that said General Order 84B shall become effective on November 15, 1948, and shall thereupon supersede General Order 84A; and that tariff filings required thereunder may be made effective on or before November 15, 1948, on not less than five (5) days' notice to the Commission and to the public.

This order shall become effective thirty (30) days from the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of September, 1948.

*R. E. Anderson*  
*James F. Cooper*  
*W. H. D. Powell*  
*Harold P. Kula*  
*Thomas H. Little*  
Commissioners

GENERAL ORDER NO. 84B

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

REGULATIONS GOVERNING THE HANDLING OF C.O.D. SHIPMENTS  
AND ACCOUNTING FOR COLLECTIONS MADE THEREON BY  
EXPRESS CORPORATIONS, FREIGHT FORWARDERS,  
HIGHWAY COMMON CARRIERS, PASSENGER STAGE  
CORPORATIONS, RADIAL HIGHWAY COMMON CARRIERS,  
HIGHWAY CONTRACT CARRIERS AND CITY CARRIERS.

Adopted September\_\_\_\_, 1948. Effective November 15, 1948.

(Decision No. 42057 Case No. 4808.)

IT IS HEREBY ORDERED that each express corporation, each freight forwarder, each highway common carrier and each passenger stage corporation, as defined in the Public Utilities Act, each radial highway common carrier and each highway contract carrier, as defined in the Highway Carriers' Act, and each carrier, as defined in the City Carriers' Act, electing to handle C.O.D. shipments shall remit to consignor all C.O.D. moneys collected on such shipments promptly and in no event later than ten (10) days after delivery to the consignee, unless consignor instructs otherwise in writing; and shall provide and file with the Commission a good and sufficient bond, in such form as the Commission may deem proper, in a sum of not less than Two Thousand Dollars (\$2,000.00).

IT IS HEREBY FURTHER ORDERED that the bond required by the preceding ordering paragraph shall be filed by the carrier as principal and by some solvent surety company, authorized to do business in the State of California, as surety, payable to the State of California and/or any person or persons to whom any amount may be due on any C.O.D. shipment transported by the carrier and not remitted to

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the person or persons to whom it is due within ten (10) days after delivery of any such shipment; that when the carrier has filed with any municipality or board thereof, pursuant to ordinance, a bond in a sum of not less than Two Thousand Dollars (\$2,000.00), payable to said board or municipality and/or any person or persons to whom any amount may be due on any C.O.D. shipment transported by said carrier and not remitted to the person or persons to whom it is due within ten (10) days after delivery of any such shipment, the filing by such carrier of a certified copy of said bond with this Commission and a showing by the carrier that said bond is in full force and effect shall be deemed compliance herewith; that each bond filed pursuant to the foregoing shall specify the extent to which the carrier's operations are covered thereby; that such a bond may cover more than one operative authority held by the same carrier; that no such bond shall be cancelled on less than thirty (30) days' written notice to the Commission; that when a carrier with such a bond or bonds on file with the Commission obtains additional operative authority said bond or bonds shall be revised or reissued to show whether or not the additional operative authority is covered thereby; and that the name of the carrier's surety company in any bond filed pursuant hereto will be made public by the Commission upon reasonable request therefor.

IT IS HEREBY FURTHER ORDERED that each express corporation, each freight forwarder, each highway common carrier and each passenger stage corporation electing to handle C.O.D. shipments shall establish in its tariffs on file with this Commission either the following rule or a rule of like meaning and effect:

"In the handling of C.O.D. shipments this carrier will, promptly upon collection of any and all moneys, and in no event later than ten (10) days after delivery to the consignee, unless consignor instructs otherwise in writing, remit to the consignor all moneys collected by it on such shipments."



IT IS HEREBY FURTHER ORDERED that no express corporation, freight forwarder, highway common carrier, passenger stage corporation, radial highway common carrier, highway contract carrier or city carrier shall handle any C.O.D. shipment unless and until a bond as hereinbefore provided has been filed with the Commission.

IT IS HEREBY FURTHER ORDERED that each express corporation, each freight forwarder, each highway common carrier, and each passenger stage corporation electing to not undertake transportation of C.O.D. shipments may withdraw and cancel its rules, regulations and rates therefor and establish in their stead a tariff provision that C.O.D. shipments will not be accepted; and that each radial highway common carrier, each highway contract carrier and each city carrier not electing to undertake transportation of C.O.D. shipments shall be deemed to have given notice of such election by not filing the bond provided for herein for carriers handling such shipments.

General Order No. 84A is hereby revoked.

This General Order shall become effective on November 15, 1948.

Approved and dated at San Francisco, California, this  
\_\_\_\_\_ day of September, 1948.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

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R. J. Pajalich, Secretary