

ORIGINAL

Decision No. 42966

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
John E. McCreary for relief from the)	
bonding requirements of General Order)	
No. 84-B and for relief from observing)	
minimum rates for C.O.D. shipments)	Application No. 30081
established by City Carriers' Tariff)	
No. 2-A and Highway Carriers' Tariff)	
No. 1-A.)	

Appearances

Gordon L. Byers and Leland F. Reaves,
for applicant.

O P I N I O N

Applicant operates as a highway contract and city carrier. His operations have been limited to performing parcel delivery service for J. F. Hink & Son from its retail department store in Berkeley to points in Alameda and Contra Costa Counties. These operations are subject to the established minimum rates for city and line-haul transportation. They are also subject to the provisions of General Order No. 84B, under which applicant may not handle C.O.D. shipments without first having provided and filed with the Commission a surety bond of not less than \$2,000.¹ Applicant seeks to have the transportation in question exempted from both the established minimum rates and the bonding requirement.

A public hearing was had at San Francisco before Examiner Jacopi.

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General Order No. 84B in effect requires carriers as defined in the Public Utilities, Highway Carriers' and City Carriers' Acts to elect whether they will or will not handle C.O.D. shipments. Those electing to do so are required to file a surety bond as indicated above and to remit to the consignor all C.O.D. moneys collected on such shipments promptly and in no event later than ten days after delivery to consignee, unless the consignor instructs otherwise in writing.

Applicant explained that the service performed for J. F. Hink & Son consisted of the delivery of small parcels to the company's retail customers and of the transportation of merchandise returned by such customers. The performance of the delivery service, he said, involved frequent handling of C.O.D. shipments.

Although authority is sought to deviate from the established minimum rates, no evidence was introduced in support of the request. In this connection, the record shows that applicant has been compensated for his services on the basis of a flat charge per month. This basis is not in conformity with the unit of measurement that applicant is required to observe under outstanding minimum rate orders.

With respect to the sought exemption on C.O.D. shipments, applicant testified that moneys collected on such shipments have always been remitted to the consignor not later than the following business day and that no complaint has been made by the consignor relative to the handling of such shipments.

The secretary-treasurer of J. F. Hink & Son testified that the company's dealings with applicant had been satisfactory and that prompt remittances of C.O.D. moneys had always been made. In the circumstances, he said, it was not desired that a surety bond be provided to cover the company's C.O.D. shipments. The witness asserted that J. F. Hink & Son had never placed any of its own employees under bond and that he saw no reason why applicant should be treated differently. The witness further testified that it had been necessary from time to time for applicant to make upward adjustments in its charges to offset increased operating expenses. He asserted that the company was opposed to applicant incurring any additional expenses that did not appear to be essential for the maintenance

of the service. The witness said that the company was willing to forego the protection provided on C.O.D. shipments by General Order No. 84B.

No one appeared in opposition to the granting of the application.

Inasmuch as no evidence was introduced in support of the proposal to deviate from the established minimum rates for the transportation involved herein, the sought authority should be denied. Applicant is admonished that unless and until authority to depart from the established minimum rates is obtained, charges for the transportation service in question must be assessed strictly in accordance with the requirements of outstanding orders.

The record is persuasive that in view of the circumstances shown the sought exemption from the bonding requirements of General Order No. 84B should be authorized.

Upon careful consideration of all of the facts and circumstances of record, we are of the opinion and hereby find that the sought exemption from the provisions of General Order No. 84B is justified. To this extent the application will be granted. In all other respects it will be denied. Because the circumstances under which the C.O.D. service in question is performed may change at any time, the exemption authorized will be limited to a one-year period and made subject to such earlier cancellation, change or extension as circumstances may require.

O R D E R

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

IT IS HEREBY ORDERED that John E. McCreary be and he is hereby authorized to handle C.O.D. shipments for J. F. Hink & Son

without providing and filing the surety bond required by General Order No. 84B; and that, in other respects, the rules and regulations set forth in General Order No. 84B shall govern the C.O.D. services involved in this proceeding.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall expire one (1) year after the effective date of this order, unless sooner canceled, changed or extended by order of the Commission.

IT IS HEREBY FURTHER ORDERED that in all other respects the above-entitled application be and it is hereby denied.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 7th day of June, 1949.

[Signature]

[Signature]

[Signature]

[Signature]
(Commissioners)