

Decision No. 43441

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order of Investigation to determine)
whether General Orders Nos. 80, 84B)
and 91 should be amended to include)
petroleum contract carriers and)
petroleum irregular route carriers.)

Case No. 5129

Appearances

Lloyd R. Guerra, Donald Murcheson, W.E. Burnham,
Frank M. Taylor, Albert M. Bland and
A. D. Moss, for various carrier respondents.

Frank M. Chandler, for Truck Owners Association of
California, interested party.

W. H. Adams and S. H. Watson, for Shell Oil Company,
interested party.

A. D. Carleton, H. L. Gunnison and Mel A. Neuberger,
for Standard Oil Company of California, interested
party.

O P I N I O N

This proceeding is an investigation on the Commission's own motion to determine whether General Orders Nos. 80, 84B and 91 should be amended by extending the requirements and provisions thereof to petroleum irregular route carriers and petroleum contract carriers.

Public hearings were held before Examiner Bryant on October 14, 1949, at Los Angeles, and on October 17, 1949, at San Francisco. The matter is ready for decision.

Two members of the Commission's staff testified in explanation of recent statutory changes which in their opinion made it desirable and necessary that the affected general orders be modified. Their recommendations were not opposed, and no other evidence was offered.

The record shows that 1949 amendments to the Public Utilities Act and Highway Carriers' Act created two new classes of carriers, termed "petroleum irregular route carriers" and "petroleum contract carriers."¹ The former are classed as common carriers and as such are required to prepare and file tariffs of their rates and charges "subject to such rules and regulations as the Commission may prescribe" (Public Utilities Act, Sec. 14(a)). General Order No. 80 provides tariff filing requirements for certain classes of motor carriers. According to the testimony, this general order has been in effect since 1927, provides bases for the construction of simple, clear and concise tariffs, and has resulted in desirable tariff uniformity. It appears that the extension of this order to petroleum irregular route carriers will make readily available to such carriers suitable rules for the construction of their required tariffs.

General Order No. 84B provides regulations governing the handling of C.O.D. (collect on delivery) shipments and the 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. This is a comprehensive order applicable to all classes of for-hire motor carriers other than the two new petroleum classes created by the 1949 statutes. From the present record, it appears that the extension of General Order No. 84B to include petroleum irregular route carriers and petroleum contract carriers would produce uniformity of regulation and would be in the public interest.

¹ California Statutes 1949, Chapters 1398 and 1399.

General Order No. 91 relates to the filing with the Commission of evidence of insurance or other designated protection against liability for the payment of damages for personal bodily injury or for the damage or destruction of property as the result of accident. Such filing is now required, either by statute or by general order, of all for-hire carriers operating over the public highways other than petroleum irregular route carriers. Amendment of General Order No. 91, as recommended by the staff witness, would afford corresponding protection with respect to petroleum irregular route carriers. Clearly it is in the public interest that these carriers maintain protection against public liability and property damage to a degree no less than that required for all other classes of highway carriers. General Order No. 91 will be amended accordingly. The witness recommended also that provision be made in General Order No. 91 for the filing of certain suitable substitutes in lieu of original insurance policies. The revision is a minor one, would serve to harmonize the general order with the current statutes (Highway Carriers' Act, Sec. 6) and clearly would not be inimical to the interests of anyone affected thereby. Under these circumstances, the suggested revision will be adopted at this time.

The following order will provide for the revision of General Orders Nos. 80, 84B and 91 as indicated.

O R D E R

Public hearings having been held in the above-entitled proceeding, and based on the evidence and upon considerations and findings contained in the preceding opinion,

C. 5129-AH

IT IS HEREBY ORDERED that General Orders Nos. 84C and 91A, attached hereto and by this reference made a part hereof, be and they are hereby adopted; that said general orders shall become effective on December 1, 1949, and shall thereupon supersede General Orders Nos. 84B and 91, respectively.

IT IS HEREBY FURTHER ORDERED that General Order No. 80 be and it is hereby made applicable to the construction and filing of tariffs and classifications by petroleum irregular route carriers.

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

Dated at San Francisco, California, this 25th day of October, 1949.

R. B. Anderson
James F. Greener
Joseph L. Jones
Harold P. Kild
Herbert W. Pott
Commissioners

GENERAL ORDER NO. 84C

(Supersedes 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, PETROLEUM IRREGULAR ROUTE CARRIERS, PASSENGER STAGE CORPORATIONS, RADIAL HIGHWAY COMMON CARRIERS, HIGHWAY CONTRACT CARRIERS, PETROLEUM CONTRACT CARRIERS AND CITY CARRIERS.

Adopted October 25, 1949. Effective December 1, 1949.

(Decision No. 4244 in Case No. 5129)

IT IS HEREBY ORDERED that each express corporation, each freight forwarder, each highway common carrier, each petroleum irregular route carrier and each passenger stage corporation, as defined in the Public Utilities Act, each radial highway common carrier, each highway contract carrier and each petroleum 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 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 canceled 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, each petroleum irregular route 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, petroleum irregular route carrier, passenger stage corporation, radial highway common carrier, highway contract carrier, petroleum 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, each petroleum irregular route carrier and each passenger stage corporation not electing to 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, each petroleum 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. S4E is hereby revoked.

This General Order shall become effective on December 1, 1949.

Approved and dated at San Francisco, California, this 25th day of October, 1949.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


R. J. Fajalich, Secretary

GENERAL ORDER NO. 91A

(Supersedes General Order No. 91)

PUBLIC UTILITIES COMMISSION OF THE STATE
OF CALIFORNIA

RULES AND REGULATIONS REQUIRING ALL HIGHWAY COMMON CARRIERS AND PETROLEUM IRREGULAR ROUTE CARRIERS, SUBJECT TO THE PUBLIC UTILITIES ACT, TO PROVIDE AND THEREAFTER CONTINUE IN EFFECT ADEQUATE PROTECTION AGAINST LIABILITY IMPOSED BY LAW UPON SUCH COMMON CARRIERS FOR THE PAYMENT OF DAMAGES FOR PERSONAL BODILY INJURIES (INCLUDING DEATH RESULTING THEREFROM) AND DAMAGE TO OR DESTRUCTION OF PROPERTY.

Adopted October ~~25~~ 1949. Effective December 1, 1949.

(Decision No. 43441, in Case No. 5129)

IT IS HEREBY ORDERED by the Public Utilities Commission of the State of California that within thirty (30) days from and after the effective date of this order, each and every highway common carrier and each and every petroleum irregular route carrier, as defined by Section 2-3/4, Public Utilities Act, subject to the Public Utilities Act and under the jurisdiction of the Commission, shall provide and thereafter continue in effect, so long as they may be engaged in conducting such operations, adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than Five Thousand Dollars (\$5,000.00) on account of bodily injuries to, or death of, one person; and protection against a total liability of such carriers on account of bodily injuries to, or death of, more than one person as a result of any one accident, but subject to the same limitation for each person, in the amount of not less than Ten Thousand Dollars (\$10,000.00); and protection in an amount of not less than Five Thousand Dollars (\$5,000.00) for one accident resulting in damage to or destruction of property other than property being transported by such carrier for any shipper or consignee, whether the property of one or more than one claimant; and

IT IS HEREBY FURTHER ORDERED that said protection hereinabove required shall be evidenced by the deposit with the Public Utilities Commission, covering each vehicle used or to be used in conducting the service performed by each such highway common carrier or petroleum irregular route carrier, of a policy of public liability and property damage insurance issued by a company admitted to write such insurance in the State of California; or of a bond of a surety company admitted to write surety bonds in the State of California; or of a personal bond with such sureties as the Commission shall find adequate to guarantee the protection prescribed in Paragraph I hereof; or it shall be evidenced by a trust fund in the amount of Fifteen Thousand Dollars (\$15,000.00), to be held in trust by some institution or person acceptable to the Commission; or by a combination of any of or all of said methods, in such manner that the aggregate of the protection or funds available therefor shall equal the principal sum of not less than Fifteen Thousand Dollars (\$15,000.00); and such carrier shall

have the option of the method to be used in obtaining such protection, and may change from one method to another, from time to time, with the consent of the Commission. With the consent of the Commission, a copy of an insurance policy, duly certified by the company issuing it to be a true copy of the original policy, or a photostatic copy thereof, or an abstract of the provisions of said policy, or a certificate of insurance issued by the company issuing such policy, may be filed with the Commission in lieu of the original or a duplicate or counterpart of said policy.

IT IS HEREBY FURTHER ORDERED that the said policy of insurance, surety bond or personal bond, evidencing such protection, shall not be cancelable on less than ten (10) days' written notice to the Public Utilities Commission, such notice to become effective only upon its receipt by the Commission.

General Order No. 91 is hereby revoked.

This General Order shall become effective on December 1, 1949.

Approved and dated at San Francisco, California, this 25th day of October, 1949.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


R. J. Rajalich, Secretary