

ORIGINAL

Decision No. 42939

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations, rates,)
and practices of ERNEST E. BUSK, doing) Case No. 5141
business as BUSVAN MOVING AND STORAGE)
COMPANY.)

Ernest E. Busk, in propria persona.
Russell Bevins, for San Francisco Movers, Inc.,
Interested party.
Harold McCarthy, for Field Division.

O P I N I O N

This proceeding was instituted, upon the Commission's own motion, by the service upon respondents of an order of investigation in order to determine whether (1) respondent has violated Sections 10, 12(a) and 13-5/8 of the Highway Carriers' Act; (2) respondent's operating authority or any part thereof should be cancelled, revoked or suspended; (3) respondent should be ordered to collect any or all undercharges for shipments transported by it; (4) respondent should be ordered to cease and desist from assessing and collecting less than minimum rates and from issuing shipping documents in form other than prescribed by the Commission. The order recites that respondent, holder of Radial Highway Common Carrier Permit No. 38-4056 and City Carrier Permit No. 38-4057, appears to have failed, during the period October 1, 1948, to October 31, 1948, and December 1, 1948, to December 31, 1948, to set forth on freight bills and shipping documents such information as is required by the Highway Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 2.

A public hearing was held in San Francisco on February 6, 1950, before Examiner Silverhart, and the matter was submitted for decision.

The testimony showed that respondent has been engaged for over 20 years in the transportation of household goods. He operates six trucks and regularly employes six persons, two of whom make up the office staff. Respondent testified that his gross earnings for 1949 were \$70,000 of which \$50,000 was attributed to intercity transportation.

A document introduced into evidence as Exhibit 1 analyzed 20 of the intercity shipments respondent handled during October and December, 1948. Respondent stipulated that the exhibit correctly reflects the information contained on the freight bills. Exhibit 1 shows 12 types of required data were omitted from the freight bills involved. Failure to (a) properly describe the commodity, (b) show the rate assessed, and (c) show weight of the shipment occurred 15, 17 and 13 times respectively. Other types of omissions took place from one to three times each. Improper assessment of rates happened seven times.

The testimony disclosed that representatives of the Field Division advised respondent as to preparation and use of shipping documents.

Respondent testified he is attempting to fully comply with the tariffs, rules and regulations of the Commission, that in the past violations were due in no small measure to errors committed by his employees despite his efforts to prevent them. He stated that he now has a competent staff, which operates with a minimum of mistakes in the preparation and issuance of shipping documents.

The evidence shows and respondent concedes that there were substantial deficiencies in the data supplied in the freight bills involved.

We find that respondent herein, during the calendar months of October and December, 1948, failed to keep shipping

documents as prescribed by the Commission in Highway Carriers' Tariff No. 4 and Highway Carriers' Tariff No. 2 as more particularly set forth in the order instituting investigation, and by so doing violated Sections 10, 12(a) and 13-5/8 of the Highway Carriers' Act.

While respondent's infractions of the Commission's rules and regulations appear to be serious enough to justify a short suspension of its radial permit, we have concluded, on the basis of the entire record, that outright suspension should not be invoked at this time. Instead, respondent should be given an opportunity to demonstrate that it will comply with applicable statutes and with outstanding orders of the Commission. Accordingly, the order to follow, although imposing a five-day suspension of the radial permit, will also provide that such suspension be stayed for approximately eight months, unless the Commission, within that period, reopens the proceeding and, after notice to respondent and an opportunity to be heard, for good cause deems imposition of the suspension appropriate. Otherwise, the proceeding will automatically terminate at the end of the eight-month period.

O R D E R

Public hearing having been held in the above entitled and numbered proceeding, the matter having been submitted for decision, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 38-4056, held by Ernest E. Busk, doing business as Busvan Moving and Storage Company, respondent herein, be and it is hereby suspended for a period of five (5) consecutive days; provided, however, that such suspension shall not become effective unless and until, on or before

December 15, 1950, the Commission shall have reopened this proceeding for receipt of further evidence, and thereafter, upon notice to respondent and an opportunity to be heard, shall otherwise order.

(2) The Secretary is hereby directed to cause personal service of a certified copy of this decision to be made upon respondent, and this decision shall become effective upon the twentieth day after the date of such service.

Dated at San Francisco, California, this
14th day of March, 1950.

R. B. [Signature]

Justin F. Cooney
San Francisco

Harold H. [Signature]

Jessie H. [Signature]
COMMISSIONERS