

ORIGINAL

Decision No. 44931

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investiga-
tion on the Commission's own
motion into the operations, rates,
charges, contracts, accounts,
rules, regulations and
practices, or any of them,
of Redding-Eureka Freight
Lines, a Corporation.

Case No. 5082

Carlton D. Stevenson for respondent.
Donald R. Woodward and C. A. Millen by
Donald R. Woodward for Sacramento-
Corning Freight Lines; and Don H.
Hawkey for Hawkey Lumber Trans-
portation, interested parties.
Hal F. Wiggins for Transportation De-
partment and Department of Finance
and Accounts, Public Utilities
Commission of the State of California.

OPINION ON FURTHER HEARING

In the prior decision in this proceeding (Decision No. 43202, dated August 9, 1949), the Commission found that Redding-Eureka Freight Lines, the respondent herein, failed to remit to consignors C.O.D. (collect on delivery) collections as directed by General Order No. 84-B and as provided in its published tariffs and that it had been delinquent in the filing of a bond covering amounts due on C.O.D. shipments as required by the same general order, in violation of Sections 17 and 30 of the Public Utilities Act.

In reaching our conclusions, we expressed the opinion that respondent would effect payment of all outstanding unremitted C.O.D. collections as expeditiously as possible and that the suspension or revocation of its operative rights would prevent respondent from making restitution and deprive the public of common carrier service.

The submission of the proceeding was therefore set aside and the matter reopened for further hearing not earlier than 90 days thereafter for the purpose of receiving evidence concerning any developments which might occur in the meantime. Respondent was directed to cease and desist from failing or refusing to collect and remit C.O.D. moneys in the manner required by the aforesaid general order and as provided in its published tariffs. It was also ordered that monthly verified statements be filed showing the amount of delinquent C.O.D. moneys paid during the preceding month and the total amount of all unremitted C.O.D. moneys outstanding on the last day of such month. The further hearing was held before Examiner Bradshaw at Redding on June 29, 1950.

The evidence submitted at the original hearing disclosed that outstanding C.O.D. moneys not remitted to consignors as of June 30, 1949, amounted to \$2,811.11. According to verified statements filed pursuant to Decision No. 43202 during the period from September, 1949, through March, 1950, various amounts were remitted to consignors and the outstanding balance on March 10, 1950, the date on which the last report was filed by respondent, amounted to \$1,942.59.

Evidence was presented at the further hearing by a representative of the Commission's field division after an examination of respondent's records. An exhibit itemizing unremitted C.O.D. moneys as of May 31, 1950, indicates that, after deducting credits for partial payments, there was outstanding a total of \$3,592.11. This amount, according to the exhibit, occurred in connection with shipments transported during 1948, 1949 and the first five months of 1950, the delinquent amounts covering each of these periods being 1948, \$1,621.78; 1949, \$657.88; and the first five months of 1950,

\$1,312.45. Other evidence discloses that as of June 16, 1950 the unremitted C.O.D. collections amounted to \$3,548.63.

It also appears that, in addition, respondent issued a note to a connecting carrier in the sum of \$1,027.06 in lieu of the payment of C.O.D. moneys covering shipments transported under joint rates, and that the unpaid balance thereon as of January 31, 1950, was \$827.06.

The evidence tends to indicate that the C.O.D. moneys collected by respondent were used to meet payroll and other expenses, but the record is not definite upon this point.

The district representative of the Commission's field division testified that, after making a survey of the territory served by respondent, he was of the opinion that the present service rendered by respondent is essential and even a temporary cessation of operations would be a very serious matter to the shippers and consignors now being served. This witness also declared that the handling of C.O.D. shipments by respondent appeared to be necessary, because certain shippers have refused to extend credit to some of the consignees. A representative of Sacramento-Corning Freight Lines, a connecting carrier, stated that it might be seriously affected if respondent is required to discontinue handling C.O.D. shipments for the reason that certain traffic originating in the Sacramento area moves under C.O.D. arrangements.

Certain evidence was also presented purporting to indicate some irregularities in respondent's accounting methods, as well as the failure to comply with provisions of the Public Utilities Act and the Commission's regulations with respect to the preparation of annual reports, the incurring of obligations and issuance of stock.

It is clear from the foregoing review of the record that respondent has continued to fail to remit C.O.D. collections as required by existing regulations and the provisions of its published tariffs, notwithstanding the order contained in our prior decision to cease and desist from so doing. Such conduct cannot be condoned and ordinarily would justify the revocation of the right to operate as a common carrier. The only reason which renders such a course inadvisable in this instance is that the public is dependent upon the continuance of an existing service. Under the circumstances, respondent will be directed to cancel all provisions relating to the handling of C.O.D. shipments now contained in its published tariffs and to withdraw its concurrence as a party to any such provisions as may appear in tariffs naming joint through rates, to which it may be a participating carrier. While some shippers and consignees may be inconvenienced by prohibiting respondent from handling C.O.D. shipments, the action herein taken is essential to prevent the perpetuation of the deplorable situation shown to exist by the record in this proceeding.

ORDER ON FURTHER HEARING

A further hearing having been had in the above-entitled proceeding, additional evidence having been received and duly considered and basing its order upon the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

(1) That Redding-Eureka Freight Lines, a corporation, be and it is hereby directed (a) to cancel all provisions relating to the transportation of C.O.D. (collect on delivery) shipments

contained in its tariffs on file with the Commission and (b) to refrain from participation in any rules and regulations relating to the transportation of C.O.D. (collect on delivery) shipments published in other tariffs naming joint through rates to which said Redding-Eureka Freight Lines is a party.

(2) That tariff publications in compliance with paragraph (1) of this order shall be filed within fifteen (15) days after the effective date of this order and become effective on five (5) days' notice to the Commission and the public.

The Secretary is directed to cause a certified copy of this decision to be served, either personally or by registered mail, upon Redding-Eureka Freight Lines.

This order shall become effective twenty (20) days after the date of such service.

Dated at Los Angeles, California, this 24th day of October, 1950

R. Z. Imbruglia
Justice J. Callahan
James H. Lawrence
Harold P. Kille
Kenneth Lott
COMMISSIONERS