

**ORIGINAL**Decision No. 49690

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation to determine whether  
 the provisions of proposed General  
 Order No. 99 should be adopted and  
 supersede the provisions of General  
 Order No. 93-A pertaining to high-  
 way common carriers, petroleum  
 irregular route carriers and  
 petroleum contract carriers.

Case No. 5097

Arlo D. Poe, for the Livestock Carriers Conference  
 of the Truck Owners Association of California and Motor  
 Truck Association of Southern California; Robert D.  
 Boynton, for the Truck Owners Association of California,  
 interested party; John Power and L. E. Hull, for the  
 Public Utilities Commission staff.

O P I N I O N

Under date of June 13, 1952, the proposed report of  
 Examiner Grant E. Syphers was filed in Case No. 5097 and after  
 copies had been served upon all of the parties to the proceeding  
 and exceptions filed and considered, this Commission issued  
 Decision No. 47566, dated August 11, 1952, which adopted the  
 recommended order contained in the proposed report with certain  
 modifications. This decision had the effect of amending certain  
 provisions of General Order No. 99 relating to the safety rules  
 applicable to highway common carriers, petroleum irregular route  
 carriers and petroleum contract carriers. Under date of  
 September 2, 1952, by Decision No. 47670, the provisions of  
 General Order No. 99 were further amended to conform to certain  
 changes in the safety regulations of the Interstate Commerce Com-  
 mission.

Subsequently two petitions were filed requesting that the effective dates of Decisions Nos. 47566 and 47670 be extended. One, a petition of the Motor Truck Association of California and the Truck Owners Association of California, requested that the effective dates of these two decisions be extended pending possible action by the legislature of the State of California with relation to safety regulations for motor carriers. The second, a petition by the Livestock Conference of the Truck Owners Association of California and the Livestock Carriers Conference of the Motor Truck Association of Southern California, requested that the provisions of Section 8.11 of General Order No. 99 relating to hours of service of drivers be extended so far as livestock carriers were concerned pending a further consideration of conditions allegedly peculiar to the livestock industry. By Decision No. 47779, dated September 30, 1952, the Commission declined to extend the effective date of the two orders in question and of General Order No. 99 but, in lieu thereof, set the two petitions for joint hearing.

A public hearing was held in San Francisco before Examiner Syphers on October 7, 1953, at which time evidence was adduced and the matter submitted. It is now ready for decision.

At the outset of the hearing the representative of the Motor Truck Association of Southern California and the Truck Owners Association of California requested that the petition of these two associations be dismissed and that the hearing be limited to a consideration of the petition of the Livestock Carriers Conference of the Truck Owners Association of California and the Livestock Carriers Conference of the Motor Truck Association of Southern

California. Accordingly, all of the testimony adduced was in connection with Section 8.11 of General Order No. 99, which section reads as follows:

"8.11. Hours of Service. Carriers shall not permit or require any driver in their employ to drive upon any highway any vehicle designed or used for transporting merchandise, freight, materials or other property for more than 12 consecutive hours nor for more than 12 hours spread over a total of 15 consecutive hours. Thereafter, such person shall not be permitted to drive any such vehicle until eight consecutive hours have elapsed."

Applicants presented the testimony of various carriers of livestock who pointed out the conditions prevailing in that industry. It was disclosed that there are major movements of livestock, including cattle and sheep, between ranges, feed lots and packing plants. In practically all instances the cattle are moved by motor vehicles. The carriers are given little or no advance notice as to the hauls but, rather, they are requested to have equipment at a designated spot at a designated time. When the equipment is sent out, the loading place is not known exactly. The driver will report to the designated place and the truck may be loaded there or it may be loaded at some spot as far as 40 miles away. Likewise, the destinations are not known in many cases. It frequently happens that a load of livestock is disposed of en route and, accordingly, the destination becomes the place where the livestock can be disposed of. The hauls are not scheduled and cannot be because of the uncertainty of the time of hauling. While the livestock truckers move over the highway they maintain no division points. It was further pointed out that it is difficult to obtain qualified drivers and that, at the present time, there is a high turnover among these drivers.

These truckers described the difficulties of attempting to operate under Section 8.11 of General Order No. 99. This section is patterned after Section 602 of the Vehicle Code and it was pointed out that the Commission's regulation, Section 8.11 of General Order No. 99, and Section 602 of the Vehicle Code do not apply to many groups of carriers. The Commission's regulations apply to highway common carriers, petroleum irregular route carriers and petroleum contract carriers. Section 602 of the Vehicle Code exempts "any vehicle used in the transportation of persons or property as a common carrier for compensation." Therefore, radial highway common carriers are not subject to either the Vehicle Code's requirements in Section 602 or this Commission's requirement in Section 8.11 of General Order No. 99. As a result, the carriers took the position that the enforcement of Section 8.11 would be discriminatory since many of their competitors are not required to observe the same limitations. They further testified that the use of sleeper cabs would be too costly. In summary, they contended it is not possible to comply with the driving limitations and to remain in business. It was pointed out that there are only 10 highway common carriers who are engaged in livestock hauling whereas there are many radial carriers which are not subject to any limitation as to driving time.

Representatives of the California Wool Growers Association and the California Cattlemen's Association testified as to the importance of having trucks haul livestock. They also testified that the industry is not in a position to pay any increased costs of transportation since the selling prices of livestock are declining.

An engineer of the Operations Safety Section of the Transportation Division of this Commission presented a study which was received in evidence as Exhibit 1-B and which set out the background of the instant petitions and discussed the problems of driving a motor vehicle over the highways of California. In this connection the growth of the State and the increased number of motor vehicles was pointed out and the results of a study as to fatigue in connection with driving of motor vehicles was presented. It was also shown that the Interstate Commerce Commission has a maximum driving time of 10 hours. It was the recommendation of the staff engineer that the limitations contained in Section 8.11 should not be relaxed.

A consideration of all of this record leads to the conclusion, and we now find, that it would not be in keeping with good safety practices to permit any relaxation of the 12-hour limitation contained in Section 8.11 of General Order No. 99. While the common carrier haulers of livestock may encounter difficulties in the application of the 12-hour driving limitation, nevertheless, the paramount consideration must be that of safety. It is not in the public interest, nor in conformity with safe driving practices, to permit drivers to operate motor vehicles for more than 12 hours without the prescribed amounts of rest. Furthermore, the Vehicle Code, Section 602, contains the same provisions as are contained in General Order No. 99, Section 8.11, and we are not inclined to provide for a longer driving time for those carriers subject to General Order No. 99.

O R D E R

Petitions as above described having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be in the public interest,

IT IS ORDERED:

(1) That the petition of the Motor Truck Association of Southern California and the Truck Owners Association of California be dismissed in accordance with the request made at the hearing.

(2) That the petition of the Livestock Carriers Conference of the Truck Owners Association of California and the Livestock Carriers Conference of the Motor Truck Association of Southern California be, and it hereby is, denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th day of February, 1954.

R. E. Anderson  
President

Justin J. Corvick

Freemuth Potter

Robert L. Mitchell

Deane Higgins  
Commissioners