

ORIGINALDecision No. 51869

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into)
 the rates, rules, regulations, charges,)
 allowances and practices of all house-)
 hold goods carriers, common carriers,)
 highway carriers, and city carriers)
 relating to the transportation of used)
 household goods and related property.)

Case No. 5330
 (Order Setting Hearing of
 February 23, 1955)

Jackson W. Kendall, for Bekins Van Lines, Inc.,
 respondent.

Wyman C. Knapp of Gordon, Knapp and Gill, for
 California Furniture Warehousemen's Association
 and California Moving and Storage Association;
Charles A. Woelfel, for California Moving and
 Storage Association; Lt. (j.g.) Charles B. Paul,
 for the Bureau of Purchases and Accounts,
 Department of the Navy; Lowell McAdam, for Calmay Van
 Lines, Inc.; Glenn W. Hovey, for the Better
 Business Bureau of Los Angeles, interested
 parties.

H. F. Wiggins, Cyril Saroyan and George I. Cates,
 for the Commission staff.

O P I N I O N

On February 23, 1955, the Commission issued its order setting hearing in the above matter for the purpose of receiving evidence relative to what provisions, if any, should be established in Minimum Rate Tariff No. 4-A governing the use of fictitious or trade names by household goods carriers.

Public hearings were held before Examiner Wilson E. Cline in Los Angeles on April 22, 1955, and in San Francisco on May 10, 1955. At the conclusion of the hearings the matter was taken under submission subject to the filing of Exhibit No. B-15 which was filed May 10, 1955.

At the hearings evidence was introduced to show that numerous fictitious names are used by some of the household goods

carriers for the purpose of obtaining listing positions in the classified sections of the telephone directories. In some cases household goods carriers have more fictitious names listed in the telephone directories than they actually have vehicles to be used for the transportation of household goods. No carrier facilities and no identifying signs are located at some of the addresses which have been listed. An agency for the carrier, however, in some cases, is located at such type of address. Some of the advertising in the telephone directories has included misleading displays of nonexistent facilities. The telephone may be answered at an address other than the one shown in the directory. In many instances there has been no compliance with the fictitious names statute.

Shippers dealing with some of the household goods carriers doing business under fictitious names have difficulty ascertaining the legal identity of such carriers when claims arise as a result of loss or damage to goods in shipment. Parties who have tort claims arising from the operation of equipment of such carriers also have difficulty ascertaining the identity of the carrier who may be responsible.

The record also shows that one of the household goods carriers in Los Angeles has published his rates in the classified section of the telephone directory. When the minimum rates for household goods carriers have been increased the rates so advertised by such carrier for a considerable period of time have been lower than the rates authorized by this Commission.

Recommendations

An associate transportation representative of the Commission staff made the following recommendations relative to the use of fictitious or trade names by household goods carriers:

1. Shipping Documents and Related Forms issued by carrier should show on the face thereof:
 - a. The address and name of the person or corporation as they appear on the operating authority issued by this Commission.
 - b. With equal prominence all fictitious or trade names recorded with the Commission.
 - c. The identification of the fictitious or trade name under which transportation is performed where more than one name is listed.

EXAMPLE:

John Doe, doing business as:

()	John's Transfer
()	Doe Transfer & Storage
()	John Doe Moving Company
()	Speedy Doe

Address: 1014 Vermont Avenue, San Francisco

2. Motor Vehicle Equipment should clearly display all fictitious or trade names recorded with the Commission.
3. Books of Account should be maintained in such form as to show separately the revenues derived from the operations conducted under each fictitious or trade name.

The witness for the California Moving and Storage

Association recommended that household goods carriers be prohibited from advertising their rates in telephone directories. He further recommended that they be prohibited from including in their directory advertising misleading description and displays of nonexistent facilities and from including in their telephone directory listings references to addresses providing no household goods transportation outlet for the public and at which transportation facilities are nonexistent.

The witness for the California Moving and Storage

Association also recommended that a party desiring to engage in the transportation of household goods should be required to file an application for a permit in the fictitious name he proposes to use, and if he desires to use more than one fictitious name he should be required to file separate applications for each fictitious

name. The applicant should be required to establish to the satisfaction of the Commission with respect to each fictitious name that he has the requisite ability and financial responsibility. He should also be required, with respect to each fictitious name, to comply in all respects with the insurance sections, the rate sections and the accounting sections of the Household Goods Carriers Act. The carrier should show on his power equipment his true name as well as any and all fictitious names of the business or businesses in which the equipment is used and whether the equipment is owned or leased.

This witness further recommended that each household goods carrier which does business under a fictitious name should be required to file a copy of the certificate and publication incident to the certificate under which he does business.

This witness stated that if the Commission permits household goods carriers to use several fictitious names, as such carriers are presently doing, such names should be cross-referenced in all of its documents and advertising, whether in the telephone directory or otherwise. A cross reference should also be made to the carrier's real name.

Conclusion

Upon reviewing the entire record in this proceeding the Commission concludes and finds as follows:

1. Any household goods carrier doing business under one or more fictitious names should be required, with respect to each fictitious name, to comply with Division 3, Part 4, Title X, Chapter II of the Civil Code of California entitled "Of the Use of Fictitious Names", and subsequent amendments thereto, and to show compliance therewith such carrier should be required to file with this Commission certified copies of any certificate and affidavits of publication required to be filed with the clerk of the county in which the principal place of business of the household goods carrier is, or in the case of cessation of doing business was, situated.

2. Upon discontinuance of the use of a fictitious name, any carrier doing business under one or more fictitious names shall file with this Commission a statement of the discontinuance of the use of such fictitious name. }
3. Household goods carriers should be required to show the following information on their stationery, shipping documents and related forms:
 - a. All names both real and fictitious, used by the household goods carrier in conducting its operations.
 - b. The address of its principal place of business, designated as such, and of such local offices as may be desired where business with the public is conducted.
 - c. Identification of the name under which the particular transportation is performed where more than one name is listed.
4. The books of account of a household goods carrier should be maintained in such form as to show separately the revenues derived from the operations conducted under each name used by such carrier.
5. Household goods carriers listing more than one name in the classified section of a telephone directory should be required to cross-reference each such name to all other such names so listed.
6. Household goods carriers should not be permitted to advertise rates in any telephone directory.
7. Household goods carriers should not be permitted to include in any advertising misleading description and displays of nonexistent facilities.
8. Item 60 series of Minimum Rate Tariff No. 4-A presently provides that carriers shall not * * * "(b) Advertise or otherwise represent that carrier operations are conducted at addresses or locations where (the) carrier or his duly authorized agent does not maintain a place of business." The following should be added to that item: "The location of a telephone answering service is not a place of business as such term is used in this item."

O R D E R

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

IT IS HEREBY ORDERED;

1. That Minimum Rate Tariff No. 4-A (Appendix "A" to Decision No. 44919, as amended) be and it is hereby further amended by incorporating therein to become effective October 1, 1955, the original

and revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

Second Revised Page 2 Cancels First Revised Page 2
Original Page 6-A
Third Revised Page 7 Cancels Second Revised Page 7
Second Revised Page 12 Cancels First Revised Page 12

2. That all carriers subject to said Decision No. 44919, as amended, be and they are hereby directed to comply not later than October 1, 1955, with the further amendment herein of that decision.

3. That in all other respects the aforesaid Decision No. 44919, as amended, shall remain in full force and effect.

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

Dated at San Francisco, California, this 23rd day of August, 1955.

John E. Mitchell
President

Justin J. Casner

William J. Kelly

R. Hardy

Commissioners

Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.

ARRANGEMENT OF TARIFF

This is a loose-leaf tariff arranged as follows:

- Section No. 1 - Rules and Regulations
- Section No. 2 - Territorial Descriptions
- Section No. 3 - Rates
- Section No. 4 - Routes
- Section No. 5 - Shipping Document Forms

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* Change)
 # Addition) Decision No. 51869

EFFECTIVE - OCTOBER 1, 1955

Issued by the Public Utilities Commission of the State of California,
 Correction No. 60 San Francisco, California.

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">RELATIONSHIPS WITH THE PUBLIC</p> <p>#1. Any carrier doing business under one or more fictitious names shall, with respect to each fictitious name comply with Division 3, Part 4, Title X, Chapter II of the Civil Code of California entitled "Of the Use of Fictitious Names," and subsequent amendments thereto, and to show compliance therewith such carrier shall file with this Commission certified copies of any certificate and affidavits of publication required to be filed with the clerk of the county in which the principal place of business of the carrier is, or in the case of cessation of doing business was, situated.</p> <p>#2. Upon discontinuance of the use of a fictitious name, any carrier doing business under one or more fictitious names shall file with this Commission a statement of the discontinuance of the use of such fictitious name.</p> <p>#3. Carriers shall show the following information on their stationary, shipping documents and related forms:</p> <ul style="list-style-type: none"> (a) All names, both real and fictitious, used by the carrier in conducting its operations. (b) The address of its principal place of business, designated as such, and of such local offices as may be desired where business with the public is conducted. (c) Identification of the name under which the particular transportation is performed where more than one name is listed. <p>#4. The books of account of each carrier shall be maintained in such form as to show separately the revenues derived from the operations conducted under each name used by such carrier.</p> <p>#5. Carriers listing more than one name in the classified section of a telephone directory shall cross-reference each such name to all other such names so listed.</p> <p>#6. Carriers shall not advertise rates in any telephone directory.</p> <p>7. Carriers shall not, in any manner, misrepresent the scope of their services which are offered and made available to the public. Specifically carriers shall:</p> <ul style="list-style-type: none"> (a) Not advertise or otherwise represent themselves under any name different from that under which their effective permits are issued by the Commission. <p><u>Exception:</u> Carriers who are duly authorized agents for other carriers as defined herein, for highway common carriers as defined in the Public Utilities Act, or for motor carriers operating under the jurisdiction of the Interstate Commerce Commission, may advertise and represent themselves as such an agent.</p>	<p>(1) *60-A Cancels 60</p>

(b) Not advertise or otherwise represent that carrier operations are conducted at addresses or locations where the carrier or his duly authorized agent does not maintain a place of business. //The location of a telephone answering service is not "a place of business" as such term is used in this item.

/(c) Not include in any advertising misleading description and displays of nonexistent facilities.

(1) For provisions in effect prior to the effective date hereof, see Second Revised Page 7.

* Change)
Addition) Decision No. 51869

EFFECTIVE OCTOBER 1, 1955

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 61

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">CHARGES COLLECTED BY ONE CARRIER FOR ANOTHER</p> <p>When charges due a carrier are undertaken to be collected for it by another carrier a detailed statement of the charges involved shall be furnished the collecting carrier by the carrier for which the collection is to be made. Such statement shall be presented to the shipper with the freight bill submitted for payment.</p>	70
<p style="text-align: center;">PAYMENT OF COMMISSIONS</p> <p>Except where prohibited by law, commissions not to exceed five percent of the transportation charges may be paid by carriers to persons or corporations that do not operate as for-hire carriers of used household goods and other articles, as described in and for which rates are provided in this tariff. (See Exception)</p> <p><u>Exception:</u> Carriers shall not pay any commission to a shipper, consignee, or the employer thereof, nor to the payer of the transportation charges.</p>	80-A Cancels 80
<p style="text-align: center;">ALTERNATIVE APPLICATION OF COMMON CARRIER RATES</p> <p>Common carrier rates may be applied in lieu of the rates provided in this tariff, when such common carrier rates produce a lower aggregate charge for the same transportation and for the same accessorial services, than results from the application of the rates herein provided.</p>	90
<p style="text-align: center;">COMPUTATION OF DISTANCES</p> <p>(a) Distances to be used in connection with distance rates named herein shall be the shortest resulting mileage via any public highway route, computed in accordance with the method provided in the Distance Table.</p> <p>(b) Shortest resulting actual mileage via any public highway route shall be used to compute charges for shipments moving under distance rates within the same incorporated city (exclusive of that portion of Los Angeles included within Los Angeles Zones) or the same Los Angeles Zone as described in the Distance Table.</p>	100-B Cancels 100-A

ALTERNATIVE APPLICATION OF RATES NAMED IN THIS TARIFF

(a) In the event two or more rates are named in this tariff for the same transportation, the lower rate shall be the minimum rate.

(b) In the event a combination of point-to-point rates provided in Item No. 430 and distance rates provided in Item No. 420 makes a lower aggregate through rate or charge for the same transportation than a single through distance rate, such lower combination of rates shall be the minimum rate.

110-A
Cancels
110

For Item No. 60, formerly)
shown on this page, see Original) Decision No. 51869
Page 6-A)

EFFECTIVE OCTOBER 1, 1955

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 62

SECTION NO. 1 - RULES AND REGULATIONS (Continued)	Item No.
<p style="text-align: center;">SHIPPING ORDER AND FREIGHT BILL</p> <p>1. A shipping document shall be issued by the carrier to the shipper for each shipment received for transportation. The shipping document shall show the following information:</p> <ul style="list-style-type: none"> (a) Name and address of carrier. #(a-1) Includes all names, both real and fictitious, used by carrier in conducting its operations. #(a-2) Identification of the name under which the particular transportation is performed where more than one name is listed. #(a-3) The address of its principal place of business, designated as such, and of such local offices as may be desired where business with the public is conducted. (b) Date issued. (c) Name of each shipper and consignee. (d) Points of origin and destination. (e) Description of the shipment, and the agreed or declared valuation thereof. (f) Unit of measurement upon which charges are based, viz.: <ul style="list-style-type: none"> 1. Actual and minimum number of hours involved; or 2. Actual number of pieces; or 3. Actual and minimum weight. (g) Deductions in time, if any, and reasons therefor. (h) Number of helpers. (i) Rates and charges assessed. (j) Description of accessorial services performed, if any, and each separate charge therefor. (k) Insurance, type and amount thereof, if any, and charge therefor. (l) Signature of carrier, or his agent. (m) Such other information as may be necessary to an accurate determination of the applicable minimum rate and charge. <p>2. The form of shipping document in Item No. 550 will be suitable and proper. Such form may be combined with the confirmation of shipping instructions and rate quotation document form provided such combined form and the issuance thereof are in compliance with the provisions of this item and Items Nos. 260 and 261 and properly identified as to what it purports to be.</p> <p>3. A copy of each document issued in compliance with the provisions of this item shall be retained and preserved by the issuing carrier, subject to the Commission's inspection, for a period of not less than three years from the date of its issuance.</p>	<p style="text-align: center;">*230-B Cancels 230-A</p>
<p style="text-align: center;">SHIPMENTS TRANSPORTED BY TWO OR MORE CARRIERS</p> <p>When shipments in continuous through movement are transported by two or more carriers, the rates (including minimum charges) provided herein from point of origin to point of destination shall be the minimum rates for the combined transportation.</p>	<p style="text-align: center;">240</p>

SHIPMENTS TO BE RATED SEPARATELY

Each shipment shall be rated separately. Shipments shall not be consolidated or combined by the carrier.

NOTE.-Component parts of a shipment may be combined under the provisions of Items Nos. 290 and 300. (Split pickup and split delivery.)

250

* Change)
Addition) Decision No. 51869

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Correction No. 63