

**ORIGINAL**Decision No. 52184

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 BLANKENSHIP MOTORS, INC., a corporation, )  
 for suspension of a portion of its ) Application No. 39369  
 certificate of public convenience and )  
 necessity. )

In the Matter of the Application of )  
 BLANKENSHIP MOTORS, INC., a corpora- )  
 tion, for authority to depart from the )  
 rates, rules and regulations of Minimum ) Application No. 39388  
 Rate Tariff No. 2 and Minimum Rate Tariff) )  
 No. 5 under the provisions of the Public )  
 Utilities Code. )

Bertram S. Silver, for applicant.  
J. C. Kaspar, A. D. Poe and J. X. Quintrall,  
 for California Trucking Associations, Inc.,  
 interested party.  
Arthur M. Mooney, for the Commission staff.

O P I N I O N

Blankenship Motors, Inc., operates as a highway common carrier of general commodities for mail order houses and certain other specified commodities between designated points in the State of California.<sup>1/</sup> It also operates as a highway contract carrier and as a radial highway common carrier. By Application No. 39369, Blankenship Motors seeks a 2-year suspension of that portion of its certificate of public convenience and necessity authorizing it to operate as a highway common carrier for the transportation of liquid bleach.<sup>2/</sup> By Application No. 39388, Blankenship Motors seeks authority, under Sections 3666 and 4015 of the Public Utilities Code, to assess monthly vehicle unit rates no lower than those named in Minimum Rate

<sup>1/</sup> These rights were granted by Decision No. 52001, dated September 27, 1955, as amended by Decision No. 52291, dated November 29, 1955, in Application No. 36012.

<sup>2/</sup> The application as filed sought the suspension only within 125 miles of Los Angeles, but at the hearing applicant asked that if the suspension is authorized, it cover all points served as a highway common carrier.

Tariff No. 5 for the transportation of liquid bleach and washing compounds for Clorox Chemical Company to points within 125 miles of Los Angeles.

Public hearing of the two applications on a consolidated record was held before Examiner William E. Turpen at San Francisco on October 24, 1957.

Applicant's president testified that his company has transported liquid bleach and washing compounds for the Clorox Chemical Company for some years and that he has not handled these commodities for other shippers. He stated that these shipments are handled both to points to which he operates as a common carrier and to points to which he operates as a permitted carrier. This situation, according to the witness, presents problems in the matter of assessing charges when split delivery shipments are tendered destined partially to certificated points and partially to non-certificated points. Also, he said, the vehicle unit rates could not be used for a combination of common carrier and contract carrier shipments.<sup>3/</sup>

The witness stated that the Clorox Company now desires to use applicant's services under monthly vehicle rates for distribution of liquid bleach and washing compounds within an area of 125 miles of Los Angeles. He pointed out that if all the shipments were destined to points within Los Angeles and Orange Counties, monthly vehicle rates named in Minimum Rate Tariff No. 5 could be used, and that if all were destined to points outside of the two counties and within 125 miles, monthly vehicle rates named in Minimum Rate Tariff No. 2 could be used, but that neither of these rates can be used when destination points are in both territories. Applicant points out

<sup>3/</sup> Section 3542 of the Public Utilities Code prohibits a carrier from operating both as a common carrier and as a highway contract carrier of the same commodities between the same points.

that the rates named in Minimum Rate Tariff No. 5 are higher than those set forth in Minimum Rate Tariff No. 2. The witness stated that the methods of operation in the larger territory will be no different from those within Los Angeles and Orange Counties.

The vice president for traffic of Clorox Chemical Company testified that his company uses other common carriers and that adequate common carrier service will be available if applicant's request for partial suspension of its certificate is granted. He also testified that, although other permitted carriers are available, his company prefers applicant's service.

The certificate granted to applicant covers a wide variety of commodities which were included on the basis of shipments transported during a test period. The specific conditions surrounding the transportation of individual commodities were not examined. The record in this proceeding is clear that, insofar as the transportation of liquid bleach by applicant is concerned, the operation is more that of a contract carrier than that of a highway common carrier. The record also shows that the public's need for highway common carriers to transport liquid bleach can be filled by other carriers. It is thus apparent, and the Commission so finds, that public convenience and necessity does not require applicant's service for the transportation of liquid bleach. The facts here disclosed raise the question whether the transportation of other commodities named in applicant's certificate is truly highway common carriage. Accordingly, an investigation will be instituted to determine the nature of applicant's operations. Pending the conclusion of such

investigation, liquid bleach will be suspended from applicant's certificate until September 1, 1958.

Vehicle unit rates were established in Minimum Rate Tariff No. 2 by Decision No. 54617, dated March 5, 1957, in Case No. 5432. It was then found that the rates contained in the various drayage tariffs were reasonable for transportation state-wide. Since that time the rates in Minimum Rate Tariff No. 5 have been increased while those in Minimum Rate Tariff No. 2 have not. In the circumstances, applicant will be authorized to observe the monthly vehicle unit rates as proposed for the same period as the suspension of liquid bleach from its certificate, subject, however, to the rules and conditions named in Minimum Rate Tariff No. 2 instead of the rules in Minimum Rate Tariff No. 5 as sought. Also, in order to avoid possible violation of the provisions of Section 3542 of the Public Utilities Code, previously referred to, a limitation will be placed upon applicant's service as a radial highway common carrier during the existence of the authority herein granted.

O R D E R

Based on the evidence of record and on the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED:

1. That the certificate of public convenience and necessity granted to Blankenship Motors, Inc., by Decision No. 52001, dated September 27, 1955, as amended by Decision No. 52291, dated November 29, 1955, in Application No. 36012, be and it is hereby amended by suspending, until September 1, 1958, "liquid bleach" from paragraph 2 on page 2 of Appendix A of said Decision No. 52291.

2. That applicant shall amend its tariffs, on not less than five days' notice to the Commission and to the public, to reflect the authority granted in paragraph 1 hereof.

3. That Blankenship Motors, Inc., be and it is hereby authorized to transport liquid bleach and washing compounds for the Clorox Chemical Company between Los Angeles and points within 125 miles thereof, including points within Los Angeles and Orange Counties, at monthly unit vehicle rates and subject to the rules named in Section 3-A of Minimum Rate Tariff No. 2, except that the rates named in Columns 3, 5 and 6, for weights of over 30,000 pounds, of Item No. 430-K of Minimum Rate Tariff No. 5, shall be applicable instead of the rates named in Items Nos. 785 and 795 of Minimum Rate Tariff No. 2.

4. That during the period that the authority granted by paragraph 3 hereof is in effect, applicant shall not engage in the transportation of the same commodities between the points involved in this authority as a radial highway common carrier, and that any such transportation which applicant may perform in violation of these provisions shall be cause for revocation of the authority herein granted.

5. That the authority granted by paragraph 3 hereof shall expire September 1, 1958 unless sooner canceled, changed or extended by order of the Commission.

6. That, except to the extent granted by the above ordering paragraphs, Applications Nos. 39369 and 39388 be and they are hereby denied.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of January, 1958.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
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Commissioners