

**ORIGINAL**

Decision No. 56376

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into operations and )  
practices of R. E. MacDonald, )  
doing business as S & M Trucking )  
Service. )

Case No. 6018

Edward G. Frasier for the Commission.

Ralph E. MacDonald, respondent.

O P I N I O N

Ralph E. MacDonald, an individual doing business as S & M Trucking Service whose principal place of business is 1245 Knoxville Street, San Diego, California, conducts operations as a radial highway common carrier under Permit No. 37-2885 issued July 31, 1956, a highway contract carrier under Permit No. 37-2829 issued July 31, 1956, and a city carrier under Permit No. 37-2774 issued July 31, 1956. He also is the holder of a certificate of public convenience and necessity issued by Decision No. 54659, dated March 12, 1957, in Application No. 36517, and authorizing the transportation of certain specified commodities between Southgate, Glendale and Los Angeles on the one hand, and San Diego on the other hand.

The order instituting investigation was for the purpose of determining whether this carrier is violating or has violated any of the provisions of General Order No. 99, or the provisions of the California Vehicle Code, and to determine whether the respondent should be ordered to cease and desist such practices, and further

whether any or all of the operating authority of said respondent should be cancelled, revoked or suspended.

A public hearing was held in San Diego on January 17, 1958, at which time evidence was adduced and the matter submitted subject to the filing of a statement by the respondent. This statement now has been filed and the matter is ready for decision.

The testimony discloses that Ralph E. MacDonald accepted the certificate granted in Decision No. 54659 by means of a letter to the secretary of this Commission dated June 12, 1957. Prior to that time, on March 27, 1957, he had been served with a copy of General Order No. 99 which contains the safety regulations.

On May 2, 1957, an inspection was made of respondent's terminal and equipment by representatives of the Operations Safety Section of this Commission. Exhibits Nos. 1 and 2 show the results of this inspection and disclose that at that time the respondent was deviating from several of the requirements of General Order No. 99. Exhibit No. 4 further supplements these reports of the inspection and consist of photographs of the shop and office facilities of respondent.

Under date of May 8, 1957, a letter was forwarded to the respondent by the secretary of this Commission detailing the deviations from the requirements of General Order No. 99 and advising that after June 12, 1957, which was the effective date of the certificate granted by Decision No. 54659 supra, the respondent would be expected to correct these deviations.

A second inspection was made on August 27, 1957, which disclosed that respondent was still making many deviations from the

requirements of the safety order. Similarly a third inspection made on December 4, 5, 9 and 10, 1957, disclosed that respondent was still not in compliance with these safety regulations.

Exhibits Nos. 11-A to 11-I, inclusive, consist of photographs and descriptions of respondent's equipment and a summary of the deviations from General Order No. 99 as disclosed by the above-mentioned inspections. An analysis of these exhibits and the testimony of the staff witnesses show that this respondent still makes many deviations from the requirement of General Order No. 99 and, that as a result of these deviations, the equipment has not been operated in a safe manner. It is also evident that this respondent has had sufficient warning and sufficient time to make the necessary corrections.

Additional testimony was presented by officers of the California Highway Patrol who issued citations to drivers employed by and trucks operated by this carrier. These citations were issued on August 19, 29, November 1, 14, 25, December 5 and 20, 1957. These citations are concerned with numerous violations both of the safety order and the vehicle code, including defective brakes and lights, lack of identification, improperly licensed equipment, and improperly licensed drivers. It was also discovered in these citations that this carrier was operating improperly registered vehicles. On December 20, 1957, it was found that this carrier was operating a Diamond T Tractor bearing license W-95264 which license was, in fact, issued to a GMC Stake truck owned by respondent. On this same date it was found that a Kolbeck semi-trailer operated by respondent carried license No. 681772 which license had, in fact, been issued

to a homemade boat trailer which was owned by a party other than respondent. The investigation disclosed that this party had lost the license plate and had applied for and received a reissue.

On this same date it was also found that a license being used on a Freuhauf trailer was, in fact, issued to a homemade flatbed trailer which was owned by respondent. This license was No. 682573.

The evidence further discloses that on November 1, 1957, a tractor and trailer operated by this respondent were impounded by the California Highway Patrol because they were using license plates not properly issued to the vehicles. Subsequently, on December 20, 1957, four citations were issued concerning these violations and on January 13, 1958, the respondent entered a plea of guilty and was fined in court as the result of these particular violations.

In addition to this testimony the evidence discloses that Ralph Edward MacDonald, who is the respondent herein, has a long record of violations as a driver, including numerous convictions for violations of various sections of the Vehicle Code. Likewise, Clarence Lindsey MacDonald, who is a driver for this respondent, has a similar record.

It was the position of the respondent that he had, in fact, committed most of the violations alleged, including those of General Order No. 99 as well as those of the Vehicle Code, but that he is trying to correct them.

A consideration of all of this record leads us to the conclusion and we now find that the respondent's operating authorities should be revoked. The number and extent of the violations disclosed by this record are appalling. The violations which we hereby find that respondent committed include failure to maintain brakes in a safe operating condition; failure to require the drivers to keep driver's logs; failure to make the required preventative maintenance inspections; failure to keep the required records of

equipment inspections and repairs; and failure to have driver's physical examinations. Furthermore, the record discloses that there has been little or no improvement in these conditions as disclosed by the subsequent inspections. It is obvious that this operator has not conducted his operations with safe equipment and it also seems obvious that he has had ample time to correct these conditions. We cannot tolerate unsafe and illegal practices.

Accordingly, we conclude that respondent is not a fit or proper person to hold any operating authority from this Commission and that public interest and safety require that all of the respondent's operating authority be revoked.

O R D E R

An order of investigation as above entitled having been issued, public hearing having been held in the matter, and the Commission being fully advised in the premises,

IT IS ORDERED:

(1) That the certificate of public convenience and necessity issued by Decision No. 54659, dated March 12, 1957, in Application No. 36517, to Ralph E. MacDonald, doing business as S & M Trucking Service, authorizing the transportation of certain specified commodities between South Gate, Glendale and Los Angeles, on the one hand, and San Diego, on the other, is revoked.

(2) That permits issued to Ralph E. MacDonald, i.e., Radial Highway Common Carrier Permit No. 37-2885 issued July 31, 1956, Highway Contract Carrier Permit No. 37-2829 issued July 31, 1956, and City Carrier Permit No. 37-2774 issued July 31, 1956, are revoked.

(3) That T. A. L. Loretz, J. P. Haynes and J. P. Hackler, Agents, are authorized and directed to cancel, on not less than five days' notice to the Commission and to the public, the participation of Ralph E. MacDonald, doing business as S & M Trucking Service, from Southern California Motor Freight Local and Joint Tariff No. 5, Pacific Southcoast Freight Bureau Exception Sheet No. 1-S and Western Classification No. 76, respectively.

(4) That Powers of Attorney AF 1 Nos. 1, 2 and 3 issued by Ralph E. MacDonald in favor of T. A. L. Loretz, J. P. Haynes and J. P. Hackler, respectively, are hereby canceled.

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

Dated at San Francisco, California, this 17<sup>th</sup> day of March, 1958.

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

Commissioners