

ORIGINAL

Decision No. 59783

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UNITED PARCEL SERVICE,

Complainant,

vs.

Case No. 6315

METROPOLITAN PARCEL DELIVERY,

Defendant.

Leigh Athearn & Roger Ramsey, for complainant.
Michael N. Khourie, for defendant.

O P I N I O N

By its complaint filed July 16, 1959, United Parcel Service requested that the Commission issue its order requiring Metropolitan Parcel Delivery to cease and desist from violating the Public Utilities Code and the orders of this Commission, in operating as a highway common carrier without a certificate of public convenience and necessity.

Public hearing was held on February 3, 1960, in San Francisco before Examiner Rowe. By stipulation documentary evidence was adduced and the matter submitted upon such stipulation.

Based upon such evidence the Commission hereby finds the following facts to exist:

1. That the defendant has held itself out to provide and has provided for the public a scheduled service between fixed termini and over regular routes.

2. That said acts of the defendant occurred solely because of carelessness and mistake on the part of the defendant's employees and not because of a deliberate intent on the part of the defendant to violate or suffer or permit a violation of law.

From the foregoing findings the Commission concludes that in the performance of said acts heretofore described, without the holding of a certificate of public convenience and necessity, the defendant violated Section 1063 of the Public Utilities Code of the State of California. In view of the absence of any evidence of a violation of minimum tariffs of the Commission and of the fact that the violations of Section 1063 do not appear to be aggravated in nature, no punitive action other than a cease and desist order is required.

O R D E R

A public hearing having been held on the above-entitled matter and the Commission being fully informed,



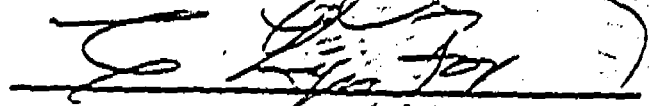
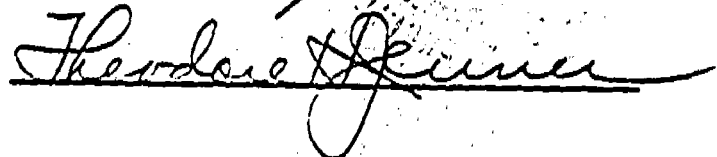
IT IS HEREBY ORDERED:

1. That Metropolitan Parcel Delivery is ordered to cease and desist from operating any auto truck as a highway common carrier as defined in Section 213 of the Public Utilities Code of the State of California, over any of the highways in the State of California,

unless and until it shall first have obtained a certificate of public convenience and necessity from this Commission as required by Section 1063 of said Public Utilities Code.

2. That the Secretary of the Commission is directed to cause personal service of this order to be made upon Metropolitan Parcel Delivery, and that this order shall be effective upon the completion of said service.

Dated at San Francisco, California, this 15th day of March, 1960.


President



Commissioners

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