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ORIGINAL

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations, )  
rates, and practices of COUGAR )  
EXPRESS, a California corporation. )

Case No. 7021

William C. Bricca, for the Commission staff.

O P I N I O N

On November 22, 1960, the Commission issued an order instituting an investigation on its own motion into the operations, rates, and practices of Cougar Express, a California corporation. This investigation was instituted for the purpose of determining: (1) whether respondent has acted in violation of Public Utilities Code Section 3664, by charging, demanding, and collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2, (2) whether respondent has acted in violation of Section 3575 of the Public Utilities Code and General Order No. 102-A by failing to file a bond to insure payment to subhaulers, and (3) whether respondent has acted in violation of Section 3942 of the Public Utilities Code by transporting property for compensation over any public highway in a city of this State without having first obtained from this Commission a permit authorizing such operation.

A public hearing was held before Examiner Kent C. Rogers at Los Angeles on February 15, 1961; evidence was presented and the matter was submitted. The respondent failed to appear. Notice of the hearing was served by registered mail on the respondent at its place of business 1553 Bluff Road, Montebello, California, on January 9, 1961.

Findings of Fact

Based upon all of the evidence of record, the Commission hereby finds: that respondent has been issued permits by this Commission as a radial highway common carrier and as a highway contract carrier, and such permits were in effect during the period of October, November and December, 1959, inclusive; that respondent has, and during said period had, no other authority from this Commission; that prior to October 1, 1959, Minimum Rate Tariff No. 2 and Distance Table No. 4 were served on respondent; that pertinent supplements or amendments to said tariff were served on respondent prior to January 1, 1960; that during the period of October 1, 1959, to December 31, 1959, inclusive, respondent, as a radial highway common carrier or as a highway contract carrier, transported various shipments of property for compensation for the public between points in the State of California; that said transportation was performed by respondent at the rates and charges set forth in Exhibit No. 6 herein, which rates and charges are less than the minimum rates and charges required by Minimum Rate Tariff No. 2 in the aggregate amount of \$533.99; that during the period of October 1, 1959, to December 31, 1959, inclusive, respondent, as a radial highway common carrier or as a

highway contract carrier, engaged a subhauler for the transportation of property and said subhauler performed said transportation; that at the time of said subhauler transportation respondent did not have a valid effective subhauler bond on file with this Commission; that during the period of October 1, 1959, to December 31, 1959, inclusive, respondent transported property for compensation for the public between two points both of which were within the exterior city limits of the City of Los Angeles; and that during said period respondent at no time had a city carrier's permit issued by this Commission.

Conclusions

Based upon the foregoing findings of fact the Commission concludes: (a) that respondent has acted in violation of Public Utilities Code Section 3664 by charging, demanding and collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed by Minimum Rate Tariff No. 2; (b) that respondent has acted in violation of Section 3575 of the Public Utilities Code and General Order No. 102-A by failing to file with this Commission a bond to insure payment to subhaulers; and (c) that respondent has acted in violation of Section 3942 of the Public Utilities Code in that it transported property for compensation between points in the City of Los Angeles without having secured from this Commission city carrier's permit as required by Section 3942 of the Public Utilities Code.

The evidence presented at the hearing shows that on January 17, 1961, one week after notice of the hearing

hereon was served on respondent, it filed a petition in bankruptcy, The record further shows that respondent paid its transportation rate fund fees to the Commission for the first quarter of 1960 with a check which was returned for insufficient funds, and that it has not paid any fees for 1960.

The record herein further shows that Albert E. Baldon is president and George Scott is vice president of the respondent corporation.

Based upon the foregoing findings and conclusions it will be ordered that the respondent's permits be canceled. Cougar Express, Albert E. Baldon and George Scott are placed on notice that no highway carrier permit will be issued to all or any of them unless and until evidence is presented to this Commission that all provisions of the following order have been fully complied with. The same notice will apply to any partnership or corporation in which Albert E. Baldon and George Scott have any substantial interest.

O R D E R

A public hearing having been held and the Commission having made the foregoing findings and conclusions, and based on said findings and conclusions,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 40991 and Highway Contract Carrier Permit No. 40992, issued to Cougar Express, a corporation, be, and they are revoked and canceled.

(2) That Cougar Express and/or Irving I. Bass, Trustee in Bankruptcy for Cougar Express, Bankrupt, shall examine the records

for the period from the date respondent secured its permits until the date on which it was adjudicated a bankrupt for the purpose of ascertaining all undercharges which may have occurred.

(3) That, within ninety days after the effective date of this decision, respondent and/or said Irving I. Bass, Trustee, shall complete the examination of the records hereinabove required by paragraph (2) and file with the Commission a report setting forth all undercharges found pursuant to that examination.

(4) That respondent and/or said Irving I. Bass, Trustee, are hereby directed to take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph (2) of this order, and to notify the Commission in writing upon the consummation of such collections.

(5) That, in the event charges to be collected as provided in paragraph (4) of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, respondent and/or Irving I. Bass, Trustee, shall institute legal proceedings to effect collection and shall submit to the Commission, on the first Monday of each month, a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such, until such charges have been collected in full or until further order of this Commission.

(6) That, within ten days after collection of each undercharge required to be collected by paragraph (4) of this order

respondent and/or Irving I. Bass, Trustee, shall pay to the Commission the fees prescribed by Section 5003 of the Public Utilities Code.

The Secretary of the Commission is directed to cause service of this order to be made on the respondent corporation, Albert E. Baldon, George Scott and Irving I. Bass, Trustee in Bankruptcy. This order shall be effective twenty days after the completion of service on the respondent corporation.

Dated at San Francisco, California, this 11<sup>th</sup> day of April, 1961.

*Charles W. DeLoach*  
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President

*W. L. Appleton*  
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*W. L. Appleton*  
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*George T. Hoover*  
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*Fredrick B. Holcomb*  
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Commissioners