

ORIGINAL

63670

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations)
 and practices of POMONA TANK LINES,)
 a California corporation. }

Case No. 7217

Donald Murchison, for respondent.
Elinore Charles and Arthur Winston, for the
 Commission staff.

O P I N I O N

On October 31, 1961, the Commission instituted an investigation to determine whether Pomona Tank Lines was in violation of the Commission's safety rules as promulgated by General Order No. 99.

A public hearing was held before Examiner Thomas E. Daly, at Los Angeles on March 22, 1962, and the matter was submitted.

Respondent, whose principal place of business is 2421 Cerritos Avenue, Long Beach, California, operates as a petroleum irregular route carrier as defined in Sections 214 and 3514 of the Public Utilities Code. It operates 10 power units and 10 trailers and employs an average of 11 drivers. For the year 1961, it had a gross revenue in the amount of \$240,627.

During July 1961 two Commission representatives visited respondent's Long Beach terminal. The investigation by one representative disclosed that respondent failed to comply with Subsection 8.11, "Hours of Service", and Subsection 8.15, "Monthly Reports of Excess Hours", of General Order No. 99 by permitting its drivers on 37 different occasions during June and July 1961 to work continuously for hours ranging from 19 to 37. The investigation

by the other representative concerned itself with equipment, driver qualifications and maintenance records. The results of his investigation disclosed the following deviations from Parts 5 and 6 of General Order No. 99:

Truck No. 2 (Placed out of service)

1. Trailer valve was not operating properly.
2. Low air warning device was not sufficiently audible.
3. Brakes on the drive and auxiliary axle were worn out.
4. Check valve was in wrong location.

Trailer No. 2A (Remained in service)

1. Trailer valve was defective because of excessive air bleed back.

Truck No. 7 (Remained in service)

1. Defective check valve.
2. Low air warning device not sufficiently audible.

Truck No. 3 (Remained in service)

1. Safety valve was defective.
2. Left rear brake on auxiliary axle needed relining.
3. Check valve was in wrong location.

Trailer No. 1A (Remained in service)

1. Front brakes needed relining.

Truck No. 6 (Remained in service)

1. Low air warning device operated below required pressure.

Trailer No. 6 (Remained in service)

1. Excessive looseness in fifth wheel assembly.

Truck No. 1 (Remained in service)

1. Brakes on steering axle disconnected.

Notice of deviations from General Order No. 99 were sent to respondent on the following dates: January 6, 1955; October 14, 1957; January 15, 1959; July 4, 1959 and May 5, 1960.

The president of respondent testified that he has attempted to correct deviations from the Commission's safety rules when brought to his attention. Although the president stated that respondent has actively conducted a preventative maintenance program for the past four years, it was the opinion of the staff witness that the program was not kept on a current basis.

Respondent's president admitted that respondent permitted its drivers to work excessive hours because they were competent employees of long standing who wanted big pay checks. He further testified that following the staff's investigation in 1961, respondent had obtained the forms for the monthly report of excessive hours and had filed them as required.

After consideration the Commission finds and concludes that respondent violated General Order No. 99 by failing to comply with Part 5, "Brakes", Part 6, "Inspection and Maintenance of Vehicles", Subsection 8.11, "Hours of Service", and Subsection 8.15, "Monthly Report of Excess Hours". Respondent's operating authority will be suspended for a period of five consecutive days, or in the alternative it shall be required to pay a fine of \$3,000.

O R D E R

An investigation having been instituted, a public hearing having been held and the Commission being informed in the premises,

IT IS ORDERED that:

1. If, on or before the fortieth day after personal service of this order upon respondent, respondent has not paid the fine referred to in paragraph 3 of this order, then the operating authority granted by Decision No. 54038 in Application No. 38393

shall be suspended for five consecutive days, starting at 12:01 a.m. on the second Monday following the fortieth day after such personal service.

2. In the event of such suspension, respondent shall not lease the equipment or other facilities used in operations under said authority for the period of the suspension, or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension; respondent shall post at its terminal and station facilities used for receiving property from the public for transportation, not less than five days prior to the beginning of the suspension period, notice to the public stating that its operating authority has been suspended by the Commission for a period of five days; within five days after such posting it shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. As an alternative to the suspension of operating authority imposed by paragraph 1 of this order, respondent may pay a fine of \$3,000 to this Commission on or before the fortieth day after personal service of this order upon respondent.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Pomona Tank Lines. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 8th day of MAY, 1962.

[Signature]
President
[Signature]
[Signature]
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Commissioners