

ORIGINALDecision No. 65665

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation concerning the failure of ABC MESSENGER SERVICE, INC., a California corporation, and of others named in Appendix A to this order, to file annual reports for the year ended December 31, 1961.

Case No. 7518
(As Amended)

Investigation concerning the failure of SACRAMENTO WATER CO., a California corporation, and of others named in Appendix A to this order, to file annual reports for the year ended December 31, 1961.

Case No. 7519
(As Amended)

(Appearances are listed in Appendix A)

O P I N I O N

These investigations, consolidated for hearing and decision, were instituted January 2, 1963 on the Commission's own motion for the purpose of determining whether the operating authority of certain respondents, named in appendices to the investigatory orders, should be revoked or suspended for their failure to file annual reports for the year 1961, as required by the Public Utilities Code, Sections 584 and 3701.

Hearings were held, after due notice, on March 12, 1963 at Los Angeles and March 20, 1963 at San Francisco, before Examiner Gregory. On motion by counsel for the Commission staff, the proceeding was continued to a date to be set, to permit issuance by the Commission of an interim order which, in effect, would afford certain respondents, who were not at the hearings and whose operating rights might be jeopardized by a final order herein, a further

opportunity to file the required reports. While the subject of the investigations primarily concerns enforcement of statutory provisions relating to the filing of reports rather than relations between the respondents and their customers, the patience of the Commission is not inexhaustible. It seems too obvious to need mention that any entity subject to the jurisdiction of the Commission which is capable of supplying service to the public should have been able to file an annual report of its operations for the year 1961 by March 31, 1962, or, if on a fiscal year basis, by July 31, 1962. Accordingly, the investigations should now be taken under submission for the purpose of issuing a final order.

The record reveals that the Commission approved annual report forms, for the calendar year 1961, for the various classes of motor carriers of property and passengers, water utilities and district water system operations, telephone utilities and warehousemen and required that the reports be filed on or before the dates fixed in the forms. Thereafter, copies of the applicable forms were forwarded to those required to file the reports, including the respondents named in this proceeding.

The record further discloses that, as of March 20, 1963, of the 73 respondents named, six had filed reports prior to formal institution of the investigation on January 2, 1963; 15 had filed between January 2 and March 12, 1963, one had moved out of the state prior to institution of the investigation; five had not claimed the registered-mail notice of hearing, including one who had filed a report on March 11, 1963; one firm had been liquidated during 1962; two were bankrupt; the operating rights of four had either been revoked or voluntarily suspended; in two other cases, responsibility for filing the reports was not clear due to the uncertain status of operative rights prior to institution of the investigation. Of the 15 who had filed reports between January 2 and March 12, nine

appeared at either the March 12 hearing at Los Angeles or the March 20 hearing at San Francisco.

Eighteen respondents, including one not shown to have been served with an investigatory order (the rest had been served with both the order and notice of hearing), appeared in person or by counsel at the hearings. The group included some who had not filed 1961 reports, others who had filed prior to the hearings and some who had filed reports for 1962, but not for 1961.

Reasons given at the hearings for not filing reports on time included: Operations reported on a fiscal year basis; change of accounting or bookkeeping personnel; nonreceipt of report forms; change of carrier classification for reporting purposes during the reporting period; dry storage warehouse operations combined with carrier report; operation or owner involved in litigation and work papers unavailable; owner of company in accident out-of-state and wife unfamiliar with reporting procedures. For the most part, the respondents who failed to file reports on time were engaged in comparatively small operations and had limited office personnel.

Counsel for the Commission staff moved to dismiss the proceeding with respect to certain respondents who had filed 1961 annual reports prior to commencement of the formal investigation. The motion should be granted and like treatment should be accorded to six others, inadvertently included as respondents, whose operations were shown to be bankrupt or to have been liquidated, or whose operating rights had been revoked or voluntarily suspended.

The current status of the operations of Alfred Bond, doing business as Bond Trucking Service, a respondent in Case No. 7519, should be investigated as the operator was shown to have moved to another state. The status of the operating rights of Howard W. Stewart, doing business as Barstow Transfer & Storage Company a

respondent in Case No. 7518, appears to be uncertain as the result of a purported transfer of the business back to a former owner. The status of Stewart's operating rights should be clarified by appropriate staff action, or, if necessary, by formal action of the Commission. Such action should embrace the filing of a 1961 report by the responsible operator. A similar situation appears with respect to Henry C. Espinosa, doing business as Resort Freight Lines, a respondent in Case No. 7519.

The proceeding should also be dismissed as to those respondents who, though not filing their 1961 reports on time, nevertheless did file them on or after January 2, 1963 and on or before March 20, 1963, the last day of the hearings herein.

Certain respondents appeared at the hearings and indicated that their 1961 reports were either in preparation or would be prepared shortly. The Commission is of the belief that the date specified in ordering paragraphs 2 and 3 hereof will permit them ample time within which to make such filings.

Finally, with respect to these, and to other respondents who, though served with the investigatory orders and with notice of hearing, neither appeared at the hearing nor had filed their reports by March 20, 1963, the Commission, by its order herein, will provide for revocation of operating rights of highway carriers and for the filing of penalty suits or the taking of other punitive action against the public utility water corporations and warehousemen whose annual reports for 1961 are not on file with the Commission by August 1, 1963.

Effective regulation requires the prompt filing of annual reports by utilities and others subject to such requirement. The Commission, therefore, hereby adopts as a policy for the future the taking of appropriate punitive action for failure to file such reports

on time, unless excused by authorization of the Commission based on a satisfactory showing of inability to effect compliance within the specified time.

O R D E R

IT IS ORDERED that:

1. The investigations herein are hereby taken under submission.
2. The investigations herein are now dismissed as to the following respondents:

Case No. 7518

Nicholas C. Conteas and Nicholas Kavoras,
doing business as California Auto Transport
James L. Chase, doing business as Jim's
Delivery Service & Kern Valley Transfer
Coast Cartage Co.
Great Western Water Service
Ridgecrest Heights Land and Water Co.
Virgil Deaver, doing business as Rock Springs
Utility District
ABC Messenger Service, Inc.
William Henry
Las Vegas Service Freightways
Moses Meiselman, doing business as Mann Trucking
Bill T. Small, doing business as Bill T. Small
Vacuum Truck Co.
System Transport
B. J. Walters, doing business as Tahquitz Lake
Water Company
Stockton Wire Products
Western Truck Lines, Ltd.

Case No. 7519

Shasta Terrace Water System
Reilly Truck Line
Frank A. Misner, doing business as The Sierra
Freight Lines
H. J. Fehely, doing business as Fehely Truck Co.
Charles W. Riley and Charles W. Riley, Jr.,
doing business as Riley Trucking Co.
Mike Torres, doing business as Torres Trucking
Sacramento Water Co.
Benbow Hotel Company
Gregory and Pearl B. Koshell, doing business as
Southland Water Company

Manuel and Dolores Madrid, doing business as
Whitener Heights Water Company
Stratford Warehouse Company
Edward J. Saal, et al., doing business as
The Riz Warehouse Co.
Howard J. Tower, doing business as Calaveras
Telephone Company
C & P Corporation, doing business as Dependable
Truck Lines
William H. Anderson
Willie Kang and Harry Kim, doing business as
Reedley Produce Trucking
Semper Truck Lines, Inc.
North Coast Transport.

3. The operating rights of the following respondents are here-
by revoked effective August 8, 1963, unless they shall have filed
with the Commission their annual report for 1961 on or before
August 1, 1963:

James Barker, doing business as James K.
Barker Trucking
Eagle Express, Inc.
G. Donald Hoskins, et al., doing business as
Hoskins Bros. Trucking Co.
Charles G. Moyer, Administrator of the Estate
of Charles Donald Moyer and Howard O. Kelly
Dave Martin Trucking
O'Neil's Hasty Moving & Storage
Paramount Truck Rental, Inc.
Patterson Trucking Company
Harold L. Shepard, doing business as H. L.
Shepard Trucking
J. A. Stafford Trucking
United Motor Lines, Inc.
Benson Tours Borrego Springs, Inc.
Winifred Breland and Lanier Page, doing business
as Breland and Page
Wayne Alvin Fields, doing business as Fields
Charter Bus Line
Manuel Martinez, doing business as Chino Transit
Line
Lyle V. Abbott, doing business as Ace City Delivery
Jay B. Booth, doing business as Booth Transportation
Arthur Mosqueira, Sr., et al., doing business as
A. M. Griggs - Griggs Van Lines, Santa Barbara -
Los Angeles Van Lines, Los Angeles Van Lines -
Santa Barbara Van Lines
Frank G. Silva, doing business as Richards Trucking
James P. Maugh, doing business as Stucki & Jim's
Truck Repair Service
Howard W. Stewart, doing business as Barstow
Transfer & Storage Co.

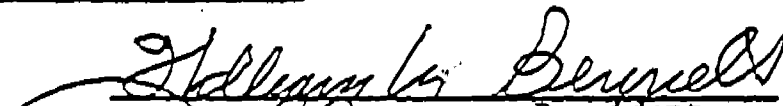
Marjorie Duarte, doing business as Oxnard Van & Storage
 Percie C. Thacker, Jr., doing business as Pioneer Van & Storage Co.
 Ventura Transfer Company
 T. A. Reilley, Executor of the Estate of H. F. Reilley, doing business as California Fireproof Storage & Transfer Co.
 Henry C. Espinosa, doing business as Resort Freight Lines
 Arthur William Baxter, doing business as Liberty Truck Lines
 Henry A. Lindly
 Richard P. Mailliard, doing business as Page Timber Co.
 Ray C. Tolson
 Tri-Valley Transportation, Inc.

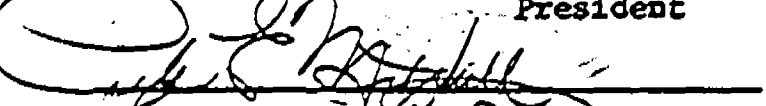
4. The Chief Counsel of the Commission is authorized and directed, effective August 8, 1963, to file suits for penalties in the Superior Court against the following respondents, or, in his discretion, to cause them, or any of them, to be arrested for misdemeanor or to take such other punitive action as he may be advised unless such respondents shall have their annual report for 1961 filed on or before August 1, 1963:

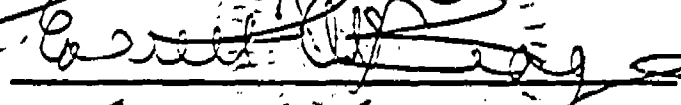
Dyke Water Company
 Hillside Water Company
 Lebec Water Works
 Oasis Palms Water Company
 Frank Rogina, dba Rogina Water Company
 Mrs. Hazel Swengel, dba Walker Water Company
 Yuba Investment Company

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this
9th day of JULY, 1963.



 President




 George T. Hoover
 Frederick B. Halchoff

 Commissioners

new
40 more

APPENDIX A

List of Appearances

Respondents: Fred Cordell, for J. A. Stafford Trucking and Western Truck Lines, Ltd.; Clayton B. Tillotson, for O'Neil's Hasty Moving & Storage; Donald Murchison, for Marjorie Duarte, doing business as Oxnard Van & Storage Co.; Claud F. Harmon, for Stockton Wire Products; Rae A. Wheeler, for Las Vegas Service Freightways; Bill T. Small, for Bill T. Small Vacuum Truck Co.; Clyde H. Martin, for Great Western Water Service; Hillel Sharlin, for ABC Messenger Service, Inc.; Charles Hess, for System Transport; Robert Hart, for Oasis Palms Water Co.; William Anderson, for Anderson Transportation; Willie Kang, for Reedley Produce Trucking; Ralph V. Taylor, for RIZ Warehouse Co., Inc.; J. H. Pank, for Yuba Investment Co.; Frank Rogina, for Rogina Water Co.; Henry A. Lindly, for Henry A. Lindly Trucking; and Howard J. Tower, for Calaveras Telephone Company.

Interested Party: J. C. Kaspar, Arlo J. Poe and B. E. Bartholemy, for California Trucking Association, Inc.

For the Commission Staff: Elinore Charles.