

ORIGINAL

Decision No. 65957

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations)
and practices of ALLYN TANK LINES,)
INC., a corporation.)

Case No. 7382
(Filed June 26, 1962)

Arthur H. Glanz for Allyn Tank Lines, Inc.,
respondent.
Timothy E. Treacy for the Commission staff.

O P I N I O N

On June 26, 1962, the Commission instituted its investigation into the operations and practices of Allyn Tank Lines, Inc., to determine whether respondent has violated or is violating any of the provisions of General Order 99 which specifies safety rules and regulations governing operations of highway common carriers, among other things.

Pursuant to the order instituting investigation, a public hearing was held before Examiner Kent C. Rogers in Los Angeles on November 8, 1962. Evidence was presented, the matter was orally argued, and it was thereafter submitted.

The Commission staff presented evidence that the investigation covered the hours of service of various drivers in respondent's common carrier operations. All parties stipulated that respondent had received a copy of General Order 99 and all amendments thereto.

The staff presented evidence that respondent has permitted its drivers to operate, as defined in General Order 99, for more than 12 hours in the aggregate in 15-hour periods of duty and to be on duty for more than 15 hours in 24-hour periods, in violation of Section 8.11 of said general order; that the monthly reports of excess hours of duty of respondent's drivers, required by Section 8.15 of said general order, were false; and that the respondent's drivers falsified the logs required by Section 8.51 of said general order.

The general order requires that logs be kept. However, the respondent requires and the drivers keep, in addition to said logs, time reports and tachometer charts. The tachometer charts and the drivers' time reports clearly demonstrate that the respondent's drivers operated in excess of the 15 consecutive hours specified in General Order 99, in violation of Section 8.11; that respondent submitted to the Commission false reports of the excess hours driven by its drivers in violation of Section 8.15 of said general order; and that the logs kept by respondent's drivers, as required by Section 8.51 of said general order, were false and erroneous.

Respondent admitted that the violations shown on the evidence presented to the Commission had taken place, but pleaded in mitigation that management did not know of said violations and its president stated that respondent has introduced a new system of triple checks whereby, in the future, it will be certain that the drivers' logs are accurate; that the drivers will keep within the hours specified by the Commission; and that any excess hours driven by the various drivers will be accurately reported to this Commission. The respondent now informs the drivers by bulletins and

meetings of the requirements of General Order 99 and has informed them that they must comply with said order and keep accurate logs of time on duty.

Based upon the evidence the Commission finds that:

1. Respondent is engaged in the transportation of property over the highways for compensation as a highway common carrier.
2. At all times mentioned herein respondent has been served with a copy of Commission General Order 99.
3. Respondent has permitted its drivers to operate their vehicles for more than 12 hours in the aggregate in 15-hour periods on duty without following said duty period with an 8-hour off-duty period and has permitted its drivers to remain on duty more than 15 hours in 24-hour periods.
4. Respondent has filed erroneous reports of excess hours of duty by drivers.
5. Respondent has permitted its drivers to file erroneous and false drivers' logs.
6. Said violations by respondent were without the knowledge or consent of respondent's officers, but were with the knowledge and consent of respondent's responsible employees.

Having found the facts as hereinabove set forth, the Commission concludes that respondent has violated Sections 3.11, 3.15 and 3.51 of General Order 99.

O R D E R

IT IS ORDERED that:

1. If, on or before the twentieth day after the effective date of this order, respondent Allyn Tank Lines, Inc., has not paid

the fine referred to in paragraph 3 of this order, then the highway common carrier certificate of Allyn Tank Lines, Inc., granted by Decision No. 57786, dated December 30, 1958, in Application No. 40520, shall be suspended for five consecutive days, starting at 12:01 a.m., on the second Monday following the twentieth day after said effective date. Respondent shall not, by leasing the equipment or other facilities used in operations under this certificate for the period of suspension, or by any other device, directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. In the event the suspension as provided in paragraph 1 hereof becomes effective, respondent Allyn Tank Lines, Inc., 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, a notice to the public stating that its highway common carrier certificate has been suspended by the Commission for a period of five days. Within five days after such posting respondent 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 rights imposed by paragraph 1 of this order, respondent Allyn Tank Lines, Inc., may pay a fine of \$3,000 to this Commission on or before the twentieth day after the effective date of this order.

4. Allyn Tank Lines, Inc., its officers and its employees, are ordered to cease and desist from carrying on any operation as

a highway common carrier without full compliance with the provisions and requirements of Commission General Order 99.

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

Dated at San Francisco, California, this 3rd day of SEPTEMBER, 1963.

William L. Brown
President

Robert H. [unclear]

Fredrick B. Holloff
Commissioners

Commissioner Peter E. Mitchell
present but not voting.

Commissioner George G. Grover
present but not voting.