

ORIGINAL

Decision No. 66552

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation into the)
rules and regulations for the handling of)
C.O.D. shipments and collection accounting)
and remittance of C.O.D. moneys by Express)
Corporations, Freight Forwarders, Highway)
Common Carriers, Petroleum Irregular Route)
Carriers, Passenger Stage Corporations,)
Cement Carriers, City Carriers, Highway)
Contract Carriers, Household Goods Carriers,)
Petroleum Contract Carriers, Radial Highway)
Common Carriers and Cement Contract Carriers.)

Case No. 7402

OPINION AND ORDER

By Decision No. 65244 in Case No. 7402, adopted April 16, 1963, effective October 1, 1963, the Commission issued General Order No. 84-D, establishing certain rules concerning the collection and accounting of C.O.D. moneys.

It appearing that Statutes 1963, Chapter 2147, effective September 20, 1963, added Section 3519 and amended Section 1061 of the Public Utilities Code to include new classes of carriers, it is necessary to make certain revisions of General Order No. 84-D.

The Commission finds that the general order set forth should be adopted. General Order No. 84-D will be cancelled and superseded by the general order adopted herein. The following order will provide for its adoption. A public hearing is not necessary.

Good cause appearing,

IT IS ORDERED that:

1. General Order No. 84-E, which is attached hereto and by this reference made a part hereof, is hereby adopted to become effective February 1, 1964, superseding General Order No. 84-D, which is hereby cancelled effective February 1, 1964.

2. The Secretary of the Commission shall serve a copy of this order upon each express corporation, freight forwarder, highway common carrier, petroleum irregular route carrier, passenger stage corporation, cement carrier and those carriers described in the Highway Carriers' Act, City Carriers' Act and Household Goods Carriers' Act.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California this 27th day of December, 1963.

William L. Bennett
President

George A. Grover

Frederick B. Holoboff

Commissioners

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

GENERAL ORDER NO. 84-E
(Cancels General Order No. 84-D)

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

REGULATIONS GOVERNING THE HANDLING OF COLLECT ON DELIVERY SHIPMENTS AND ACCOUNTING FOR COLLECTION MADE THEREON BY EXPRESS CORPORATIONS, FREIGHT FORWARDERS, HIGHWAY COMMON CARRIERS, PETROLEUM IRREGULAR ROUTE CARRIERS, PASSENGER STAGE CORPORATIONS, CEMENT CARRIERS, CITY CARRIERS, HIGHWAY CONTRACT CARRIERS, HOUSEHOLD GOODS CARRIERS, PETROLEUM CONTRACT CARRIERS, RADIAL HIGHWAY COMMON CARRIERS AND CEMENT CONTRACT CARRIERS.

Adopted Dec. 27, 1963, Effective February 1, 1964.
Decision No. 65552, Case No. 7402

IT IS ORDERED that:

1. A collect on delivery shipment, hereinafter referred to as a C.O.D. shipment, means a shipment upon which the consignor has attached, as a condition of delivery, the collection of a specific sum or sums of moneys by the carrier making delivery thereon and the return of said moneys to the consignor or other payee designated by the consignor.

2. No express corporation, freight forwarder, highway common carrier, petroleum irregular route carrier, passenger stage corporation, cement carrier, city carrier, highway contract carrier, household goods carrier, petroleum contract carrier, radial highway common carrier or cement contract carrier as defined in the Public Utilities Code, shall handle C.O.D. shipments unless and until it has on file with the Commission a good and sufficient bond in such form as the Commission may deem proper, in a sum of not less than Two Thousand Dollars (\$2,000). The principal amount of the bond of any particular carrier may be increased from time to time where the Commission finds that the public interest so requires.

3. The bond required by ordering paragraph 2 hereof shall be filed by the carrier as principal and by a qualified surety insurer, authorized to do business in the State of California, as surety, payable to any person or persons to whom any amount may be due on any C.O.D. shipment transported by the carrier and not remitted to the person or persons to whom it is due within 10 days after delivery of any such C.O.D. shipment; that each bond filed pursuant to the foregoing shall specify the extent to which the carrier's operations are covered thereby; that such a bond may cover more than one operative authority held by the same carrier; that when a carrier with such a bond on file with the Commission obtains additional operative authority, said bond shall be revised or reissued to show whether or not the additional operative authority is covered thereby; and that the name of the carrier's surety company in any bond filed pursuant hereto will be made public by the Commission upon reasonable request therefor.

4. The term of the bond shall include: that any person or persons to whom an amount may be due on any C.O.D. shipment transported by a carrier and not remitted within 10 days after delivery of said shipment may file a claim therefor with the surety; that upon the filing of the claim, the surety shall notify the Commission and the carrier in writing of such filing; that such notification to the Commission shall be addressed to the Public Utilities Commission of the State of California at its office in San Francisco; that suit against the surety shall be commenced within one year after the date the shipment was tendered to the carrier; and that the surety waives any rights it may have under Section 2845 of the Civil Code of the State of California.

5. The bond required herein may be canceled by the surety by written notice to the Public Utilities Commission of the State of California at its office in San Francisco, such cancellation to become effective thirty days after receipt of said notice by the Commission.

6. The bond prescribed herein shall not be required of carriers while engaged as independent-contractor subhaulers; carriers while engaged in transporting property for which rates are provided in Minimum Rate Tariff No. 7; or city carriers operating within lawfully established pickup and delivery limits as agents of a common carrier in the performance for such common carrier of transfer, pickup or delivery services provided for in the lawfully published tariffs of such common carrier.

7. Every express corporation, freight forwarder, highway common carrier, petroleum irregular route carrier, passenger stage corporation, cement carrier, city carrier, highway contract carrier, household goods carrier, petroleum contract carrier, radial highway common carrier and cement contract carrier handling C.O.D. shipments shall:

- (a) Establish and maintain a separate bank account or accounts wherein all moneys (other than checks or drafts payable to consignor or payee designated by consignor) collected on C.O.D. shipments will be held in trust until remitted to payee, except C.O.D. moneys which are remitted within five days after delivery.
- (b) Establish and maintain a record or records of all C.O.D. shipments in such manner and form as will plainly and readily show the following information with respect to each shipment:
 - (1) Number and date of freight bill.
 - (2) Name and address of consignor or other person designated as payee.
 - (3) Name and address of consignee.
 - (4) Date shipment delivered.
 - (5) Amount of C.O.D. moneys collected.
 - (6) Date C.O.D. moneys remitted.
 - (7) Check number or other identification of remittance to payee.
- (c) Collect the full amount of the C.O.D. moneys at the time C.O.D. shipments are delivered to the consignee and remit all such collections to consignor, or to other persons designated by the consignor on such shipments, promptly and in no event later than 10 days after delivery to the consignee, unless consignor instructs otherwise in writing. All remittances for C.O.D. shipments shall refer to or otherwise identify the C.O.D. shipment or shipments covered by the remittance.
- (d) Not accept checks or drafts (other than certified checks, cashier's checks, or money orders) in payment of C.O.D. charges unless authority has been received from the consignor.
- (e) Except in situations covered by subparagraph (f), notify the consignor immediately if a C.O.D. shipment is refused or cannot be delivered on the carrier's initial attempt. Upon instructions from the consignor the carrier may attempt subsequent deliveries, the charge for each such delivery, or attempted delivery, being determined by the applicable freight charges from carrier's terminal to the point of destination, but in no event less than the rate provided for mileages of less than three miles. The carrier may also return the shipment to the consignor upon his request, subject to a charge equal to the applicable freight charges on the original outbound movement.
- (f) While engaged in transporting property for which rates are provided in Minimum Rate Tariff No. 7, notify the consignor immediately if a C.O.D. shipment is refused or cannot be delivered because of circumstances beyond the carrier's control. In the event of such non-delivery, and pursuant to the consignor's instructions, the shipment shall either be returned to the consignor subject to double the outbound freight charges for the round-trip movement, or delivered to another consignee subject to the applicable distance rate, in addition to the original rate, from the point of non-delivery to the new destination.

Note: If hourly rates are applicable on deliveries involving C.O.D. shipments, such hourly rates shall supersede the rates provided in this subparagraph (f).
- (g) Not make a C.O.D. shipment part of a split delivery shipment.
- (h) Have recorded on, or appended to, the shipper's copy of its C.O.D. shipping document, the following information:
 - (1) That the carrier has on file with the Public Utilities Commission of the State of California a C.O.D. surety bond, with an aggregate liability of not less than \$2,000.

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- (2) That claims arising from failure to remit C.O.D. moneys may be filed directly against the surety company and any suits against the surety must be commenced within one year from the date the shipment was tendered.
 - (3) That the name and address of the surety company may be obtained from the Public Utilities Commission, State Building, San Francisco, California 94102.

8. No express corporation, freight forwarder, highway common carrier, petroleum irregular route carrier or passenger stage corporation shall handle C.O.D. shipments unless and until such carrier has published and filed tariffs which contain the rates, rules and regulations governing such service, which rules and regulations shall conform to this general order.

9. Every express corporation, freight forwarder, highway common carrier, petroleum irregular route carrier and passenger stage corporation, while acting in the capacity of a delivery carrier on C.O.D. shipments moving in interline service, shall at the time of remittance of the C.O.D. collections to the consignee or payee, notify the originating carrier of such remittance.

10. If, in any particular case, exemption or deviation from any of the requirements herein is deemed necessary by the carrier concerned, the Commission will consider the application of such carrier for such exemption or deviation when accompanied by a full statement of the conditions existing and the reasons why such exemption or deviation is considered necessary.

11. Each express corporation, each freight forwarder, each highway common carrier, each petroleum irregular route carrier, each passenger stage corporation and each cement carrier not electing to undertake transportation of C.O.D. shipments may withdraw and cancel its rules, regulations and rates therefor and establish in their stead a tariff provision that C.O.D. shipments will not be accepted; and that each city carrier, each highway contract carrier, each household goods carrier, each petroleum contract carrier, each radial highway common carrier and each cement contract carrier not electing to undertake transportation of C.O.D. shipments shall be deemed to have given notice of such election by not filing the bond provided for herein for carriers handling such shipments.

General Order No. 84-D is hereby revoked.

This General Order shall become effective February 1, 1964.

Approved and dated at San Francisco, California this 27th day of December, 1963.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

By: Noel Coleman, Acting Secretary