

Decision No. 66661**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
C. L. Tilden, Jr. and Irving S.)	
Culver, a partnership, doing business)	Application No. 45723
as GIBRALTAR WAREHOUSES, for partial)	(Filed August 29, 1963)
exemption from the requirements of)	
General Order No. 84-D.)	

O P I N I O N

By this application C. L. Tilden, Jr., and Irving S. Culver, a partnership, doing business as Gibraltar Warehouses, seek authority as a highway common carrier of general freight to be exempted from the provisions of paragraph 7(h) of General Order No. 84-D.^{1/} That general order prescribes rules for the handling of C.O.D. (Collect on Delivery) shipments and for the collection, accounting and remittance of C.O.D. moneys. It was superseded by General Order No. 84-E, effective February 1, 1964. As General Order No. 84-E makes no change in General Order No. 84-D which is material to the issues in this proceeding, the application will be considered as an amended application seeking relief from General Order No. 84-E.^{2/}

Paragraph 7(h) of General Order No. 84-E provides that every highway common carrier (among others) handling C.O.D. shipments shall:

^{1/} Applicants also operate as public utility warehousemen and as a city carrier providing drayage service within San Francisco. While the application does not state specifically, the allegations clearly indicate that these operations are not involved herein.

^{2/} General Order No. 84-E was adopted by the Commission by Decision No. 66552, dated December 27, 1963, in Case No. 7402.

"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.
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."

Applicants allege that compliance with the provisions of paragraph 7(h) of General Order No. 84-E will unduly burden them by causing additional expense in picking up C.O.D. shipments. Applicants say that their drivers would be required to be supplied with a rubber stamp and stamp pad or printed, gummed statements containing the required information to record the information on the shipper's copy of the shipping document. Either of these methods, it is alleged, would require additional time on the part of applicants' drivers and increase the cost to applicants in performing pickup service.

In lieu of being required to comply with the foregoing requirements, applicants request authority to publish the substance of subparagraphs 1, 2 and 3 of paragraph 7(h) of the general order in their tariffs.

In this connection, applicants assert that publication of the proposed tariff provision would constitute appropriate notice to the public and should thus obviate any need to record or append

similar information on or to the shipper's copy of the C.O.D. shipping document. Applicants, as a common carrier, are required by law to publish and file a tariff or tariffs naming all the rates, charges and rules pertaining to the services which they provide. They allege that to require additional documentation such as contemplated by paragraph 7(h) results in an undue burden and needless expense to applicants. Applicants further submit that shipping documents (bills of lading) are prepared by shippers on forms which they generally provide and, that, invariably, there is not sufficient space on the bill of lading form to permit recording thereon the information which the Commission has prescribed.

The requirements of paragraph 7(h) of the general order were established following public hearing and full consideration of the record in Case No. 7402. They were prescribed for the purpose, among others, of insuring insofar as possible that carriers advise shippers specifically of the coverage under the carriers' C.O.D. bonds and the procedures to be followed by shippers to recover in the event of carriers' failure to remit C.O.D. moneys. These are desirable and reasonable requirements for carriers generally. Relief therefrom should be authorized only when it is affirmatively shown that the requirements are unduly burdensome.

A request for relief similar to that sought herein was considered by the Commission, following public hearing, in Application No. 45775. The record in that proceeding shows that the experiences of each of the usual highway common carriers of general freight with respect to paragraph 7(h) are substantially the same. The request for relief in Application No. 45775 was denied by Decision No. ~~60058~~, dated today.

The allegations in the instant application are included among those advanced in Application No. 45775. The instant application does not show that applicants' operations are unusual or that their experiences under paragraph 7(h) of General Order No. 84-E are significantly different from those of other usual highway common carriers.

The Commission finds that the sought authority to depart from paragraph 7(h) of General Order No. 84-E has not been justified.

The Commission concludes that the application should be denied.

The application alleges that this is not a matter in which a public hearing is required. Public hearing would appear to serve no useful purpose. However, to afford applicants an opportunity to seek public hearing if they are of the opinion one is now warranted, provision will be made to stay the order if a written request for a public hearing is made within thirty days from the date hereof.

O R D E R

IT IS ORDERED that Application No. 45723, as amended, is denied.

The effective date of this order shall be the thirtieth day after the date hereof, unless before such effective date there shall have been filed with this Commission a written request for

a public hearing, in which event the effective date of this order shall thereby be stayed until further order of the Commission.

Dated at San Francisco, California, this 21st day of January, 1964.

William A. Bennett
President

John E. Mitchell

Robert W. Ray

George L. Traver

Frederick B. Holdorf
Commissioners