

Decision No. 66563

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 WILLIG FREIGHT LINES, a corporation,
 for exemption or deviation from the
 requirements of General Order No. 84-D

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) Application No. 45739
 (Filed September 5, 1963)

O P I N I O N

By this application Willig Freight Lines, a corporation, operating as a highway common carrier of general freight, seeks authority to be exempted from, or to deviate from, the provisions of paragraphs 7(a) and 7(h) of General Order No. 84-D. 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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.¹

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

"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."

¹ General Order No. 84-E was adopted by the Commission by Decision No. 66552, dated December 27, 1963, in Case No. 7402.

Applicant states that it has established and adhered strictly to the policy and practice of remitting C.O.D. moneys promptly. Applicant asserts that the only deviation from this practice has been in the case of shipments which cannot be delivered and, in such cases, the consignor is immediately notified. Applicant alleges that, in view of these circumstances, the establishment and maintenance of a separate bank account as provided in paragraph 7(s) of General Order No. 84-E would impose an undue burden upon it and subject it to bank service charges in connection with such an account.

Paragraph 7(a) has no application in connection with C.O.D. shipments which have not been delivered. Inasmuch as applicant's request for relief involves such shipments only, no relief from paragraph 7(a) of the general order has been shown to be required.

The Commission concludes that the request for relief from paragraph 7(a) of General Order No. 84-E should be dismissed without prejudice.

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

"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."

Applicant alleges that compliance with the provisions of paragraph 7(h) of General Order No. 84-E will not only subject it to an undue burden and hardship but that such requirement appears to be inconsistent with other provisions of the said General Order No. 84-E. Applicant says that in order to record or append the required information to shipper's copy of its C.O.D. shipping document, applicant's drivers would each have to be supplied with the means of recording such information on the shipping document either by an impression of a rubber stamp or a printed statement to be attached at the time of picking up a C.O.D. shipment. Either of these methods, applicant asserts, will require additional time on the part of applicant's driver employees and thus increase the cost to applicant in performing pickup service. Applicant submits that the additional expense is unwarranted in view of the fact that under other provisions of General Order No. 84-E no C.O.D. shipments may be handled without first having a bond on file with the Commission. Applicant also submits that its patrons are generally well aware of the C.O.D. bonding requirements.

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 similar relief was considered by the Commission, following public hearing, in Application No. 45775. The record in that proceeding shows that the experiences 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. 66658, dated today.

The allegations in the instant application are included among those advanced in Application No. 45775. The instant application does not show that applicant's operations are unusual or that its experiences under paragraph 7(h) of General Order No. 84-E are significantly different from those of the usual highway common carrier. 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 with respect to the requested authority to depart from the provisions of paragraph 7(h) of General Order No. 84-E.

The applicant alleges that this is not a matter on which a public hearing is required. Public hearing would appear to serve no useful purpose. However, to afford applicant an opportunity to seek public hearing if it is 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. 45739, as amended, is dismissed with respect to the request for authority to depart from the provisions of paragraph 7(a) of General Order No. 84-E and is denied in all other respects. ✓

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 M. Bennett
President

Carroll H. Bagg

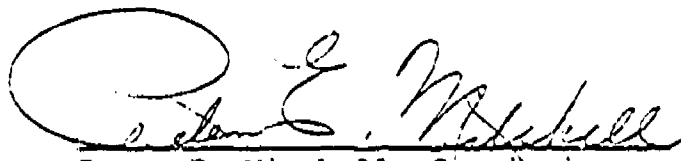
George T. Hoover

Frederick B. Hallock
Commissioners

A 45713; A 45714; A 45739; A 45740; A 45748; A 45749; A 45757;
A 45767; A 45791; A 45796; A 45812; A 45818; A 45819; A 45850;
A 45869; A 45878; A 45890; A 45896; A 45931.

COMMISSIONER PETER E. MITCHELL dissenting:

I dissent to that portion of this order which denies exemption or deviation from Paragraph 7(a) of General Order No. 84-D. This is consistent with my action in Decision No. 65244, Case No. 7402.


Peter E. Mitchell, Commissioner