

**ORIGINAL**Decision No. 66667

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 SHIPPERS EXPRESS COMPANY, a corporation, } Application No. 45765  
 for exemption from the requirements of } (Filed September 12, 1963)  
 General Order No. 84-D. }

O P I N I O N

By this application Shippers Express Company, a corporation, operating as a highway common carrier of general freight and fresh fruits and vegetables, seeks authority to be exempted from, or to deviate from, the provisions of paragraph 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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.<sup>1/</sup>

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."

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

Applicant alleges that compliance with the provisions of paragraph 7(h) of the general order will subject it to an undue burden and hardship. Applicant states that in order to comply with the provisions of paragraph 7(h) it would be necessary to furnish each of its drivers with mechanical or other devices to append to or record on the shipper's copy of its C.O.D. shipping document the required information. The expense of such devices as well as other expenses in connection therewith, applicant further states, are not warranted in view of the fact that under other provisions of General Order No. 84-E, C.O.D. shipments may be handled without initially having a bond on file with the Commission. It asserts that the requirements of paragraph 7(h) appear to be superfluous in view of its long standing practice and experience in handling C.O.D shipments.

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. ~~60058~~ dated today.

Applicant's allegation that C.O.D. shipments may be handled without initially providing and filing a bond with the Commission is accurate only in connection with transportation as described in paragraph 6 of General Order No. 84-E. Paragraph 6 provides in general that a bond is not necessary for transportation performed as an independent-contractor subhauler, the transportation of property for which rates are provided in Minimum Rate Tariff No. 7 or the performance of transfer, pickup or delivery services by a city carrier as agent for a common carrier. The authority herein sought by applicant is in connection with its common carrier operations for the public generally and does not involve transportation as described in paragraph 6.

The other 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.

Applicant 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 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.

ORDER

IT IS ORDERED that Application No. 45765, 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 W. Bennett  
President

John Mitchell

Robert W. Rye

George G. Grover

Fredrick B. Hallock  
Commissioners