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**ORIGINAL**

Decision No. \_\_\_\_\_

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 DI SALVO TRUCKING CO., a corporation,  
 for exemption or deviation from the  
 requirements of General Order No. 84-D. }  
 Application No. 45767  
 (Filed September 13, 1963)

O P I N I O N

By this application Di Salvo Trucking Co., 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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.<sup>1/</sup>

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."

<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.

According to the application, applicant's destination terminal managers daily deposit all cash in a local area bank and then remit that amount in draft form with an itemization together with all checks received to applicant's general accounting department in San Francisco. The general accounting department in turn deposits the draft and all checks made payable to Di Salvo Trucking Co. in the company's general fund bank account in San Francisco and, at the same time issues company checks to shippers for each C.O.D. amount included in said deposit. Checks made payable to shippers are immediately forwarded to the shippers involved.

Paragraph 7(a) of General Order No. 84-E does not require a separate bank account in connection with C.O.D. moneys remitted to payee within five days after delivery of shipment. Under the procedure outlined in the application, applicant's C.O.D. collections appear to be remitted within the five-day period. In these circumstances, no relief from paragraph 7(a) has been shown to be required.

The Commission concludes that 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 the provisions of paragraph 7(h) of General Order No. 84-E are impractical in connection with the type of operation performed by it. Applicant states that it employs approximately 100 drivers in pickup service each day throughout the state and that it serves thousands of shippers during the year. It further states that any of its customers, whether regular or infrequent, may, from time to time, ship on a C.O.D. basis and that to disseminate the information required by paragraph 7(h) to the thousands of shippers served by it would be burdensome and expensive.

Applicant points out that it has been suggested that the required information be included in the shipping document forms furnished by the carrier to shippers. As to this possibility, it asserts that many shippers print their own forms. Another suggestion, applicant states, is to furnish the carrier's drivers with a rubber stamp containing the necessary information and have the drivers stamp the information on C.O.D. shipping documents. Applicant alleges that the stamp is expensive and that the rate of loss of such stamps by drivers would be great. It would be necessary, applicant states, to verify every day whether each driver had a stamp in his possession.

Applicant alleges that it has handled a substantial volume of C.O.D. shipments throughout the years to the satisfaction of and without loss to the shipping public. Applicant further avers that shippers generally are familiar with 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 except that relating to an alleged need to notify all potential C.O.D. shippers of the provisions of paragraph 7(h) which makes no such requirement. What is required is that the carrier transcribe or append the information outlined by the paragraph on the shippers' copies of shipping documents covering actual C.O.D. shipments. 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.

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.

O R D E R

IT IS ORDERED that Application No. 45767, 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 C. Bennett  
President

Charles W. Boyer

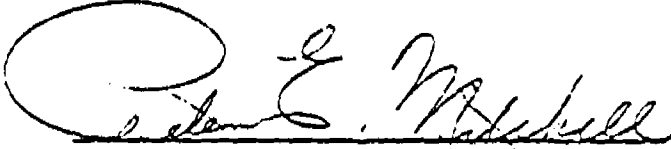
George L. Grover

Fredrick 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 45880; 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