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Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ASSOCIATED FREIGHT LINES, a California corporation, for exemption or deviation from the requirements of General Order No. 84-D.)))))	Application No. 45791 (Filed September 20, 1963)
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O P I N I O N

By this application, Associated 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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(c) 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

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

be held in trust until remitted to payee, except C.O.D. moneys which are remitted within five days after delivery."

Applicant alleges that it remits C.O.D. moneys collected during the previous week ending on Wednesday to the proper parties each Friday. Thus, C.O.D.'s collected from Thursday through Wednesday will be paid within two days after the end of each such week. Moneys collected at each of applicant's seven terminals are deposited in the company's local bank accounts and reports thereof are forwarded to the principal office. Each week a determination is made of the moneys due and checks therefor are drawn on a special bank account. An amount is transferred each week from the company's general account to cover the sums drawn on this special account.

Applicant further alleges that the establishment and maintenance of separate C.O.D. accounts by its seven terminals will unduly complicate the handling of these moneys and require additional unnecessary reports and deposits.

Paragraph 10 of General Order No. 84-E provides that if, in any particular case, exemption or deviation from any of the requirements therein 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.

Applicant's statement of conditions and reasons is not persuasive that deviation from the provisions of paragraph 7(a) of General Order No. 84-E is justified in connection with its handling of C.O.D. shipments. No reason has been shown why applicant's

procedure of remitting C.O.D.'s each Friday may not readily be changed. The Commission finds that exemption from paragraph 7(a) of the general order has not been justified.

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 requirement for additional documentation by applicant's pickup drivers will unnecessarily delay, and increase costs incurred in, its operations. It further alleges that if drivers have to carry a stamp and ink pad or labels to affix the language in said subparagraph to the freight bills of shippers who desire to ship C.O.D., it will obviously lengthen pickup times and increase expenses. Applicant states that, under present labor contracts, it cannot exercise absolute or complete control over the employees and insure their full compliance with this regulation. The application alleges that the Commission's records will show no complaint has been submitted to it from a member of the public because applicant has not remitted C.O.D. moneys.

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. 66058, 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.

Applicant requests that an ex parte order be issued. 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. 45791, 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

Robert W. King

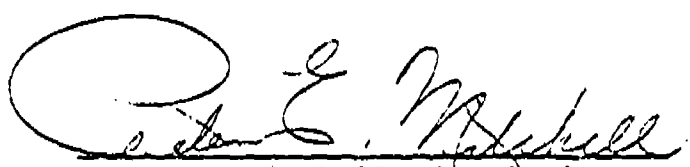
George F. Trover

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 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