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Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
HASLETT WAREHOUSE COMPANY, a corpo-)
ration, for exemption or deviation)
from the requirements of General)
Order No. 84-D.)

Application No. 45796
(Filed September 23, 1963)

O P I N I O N

By this application Haslett Warehouse Company, 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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.

In support of the sought relief, applicant states that its terminal manager at Sacramento, which station handles shipments for the northern part of the territory it serves, upon delivery of C.O.D. consignments promptly issues and mails to the shipper or payee designated by the shipper, a check for the amount of the C.O.D. C.O.D. remittances on shipments for the balance of the territory served by applicant are similarly handled through its San Francisco office. Splitting such payments through two offices, applicant states, enables it to handle them without delay.

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 the payee by the carrier within five days after delivery of the shipment. Inasmuch as applicant makes such remittances without delay, 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 subject it to a considerable financial burden and that the provisions are impractical in applicant's operations. Applicant further alleges that it employs approximately 100 drivers in pickup service daily throughout the State and serves hundreds of different shippers throughout the year, many of them on a regular basis, many more at varying frequencies, some of them once only, any of whom may, from time to time, ship C.O.D. consignments. Applicant states that it is obvious that to disseminate the information required by paragraph 7(h) of General Order No. 84-E to these hundreds of shippers would be burdensome and expensive. Suggestions have been made that the information be included in shipping document forms furnished by the carrier; many shippers print shipping documents for their own use. Another suggestion is the use of rubber stamps by drivers on C.O.D. shipping documents. Applicant contends that this would be most impractical because of difficulty in keeping various drivers supplied with stamps. According to applicant, shippers generally are familiar with the C.O.D. bonding requirements. In addition, it is alleged that throughout the years applicant has handled a considerable volume of C.O.D.'s to the satisfaction of and without loss to the shipping public.

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). Paragraph 7(h) makes no such requirement. What is required is that the carriers 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 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. 45796, 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

WILLIAM M. BENNETT
President
EVERETT C. McNEAGE
GEORGE G. GROVER
FREDERICK B. HOLBOFF
Commissioners

Everett C. McNeage

George G. Grover

Frederick B. Holboff
Commissioners

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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