

Decision No. 66680**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 G. I. TRUCKING COMPANY for exemption)
 from Paragraphs 7(a) and 7(h), General)
 Order No. 84-D, Decision No. 65244,)
 Case No. 7402.)

Application No. 45931
 (Filed November 1, 1963)

O P I N I O N

Applicant is a corporation operating as a highway common carrier of general freight, a radial highway common carrier, a contract carrier and a city carrier. By this application it 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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, radial highway common carrier, contract carrier and city 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

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

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."

Applicant alleges that while the majority of C.O.D. moneys are remitted to consignors or payees within three business days after delivery, there are times when by reason of legal holidays remittances cannot be made within five days of collection of C.O.D. moneys by applicant.

According to the application, the establishment of a separate bank account would place upon applicant an additional cost for the handling of C.O.D. shipments which should be avoided in order that the cost structure of handling C.O.D. moneys be not increased which may reflect in future rate and C.O.D. fee structures.

Applicant states that it handles C.O.D. shipments to points which are far distant from the terminal areas; and that C.O.D. amounts collected are first returned to the collection and delivering terminal by the delivering driver and then transmitted to the applicant's general office at City of Commerce, California. Applicant asserts that C.O.D. funds that are collected on Fridays would not be processed for transmittal by the collection terminal until the next day, with the funds arriving at the general office for further processing on the following Monday or Tuesday.

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. 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, radial highway common carrier, contract carrier and city 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 an undue burden. Applicant says that in order to record the required

information on the shippers' copies of the shipping documents, applicant's drivers would be required to be supplied with and use a rubber stamp or a gummed, printed statement containing the required information. Either of these methods, it is alleged, would result in additional cost by consuming more time in performing pickup service.

Applicant asserts that there is always the possibility that a driver might fail to record the required information on the shipping document and thereby place applicant in a position of having unintentionally failed to comply with the Commission's rule. In this connection, applicant says that since the shipper's copy of the bill of lading is left with the shipper, at the time the document is receipted by applicant's driver, there would be no way for the applicant and its supervisory personnel to police these documents and be assured the required information is annotated or appended thereon.

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 request for relief in Application No. 45775 was denied by Decision No. ~~45775~~ 45775, 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. 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.

O R D E R

IT IS ORDERED that Application No. 45931, 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 9th day of January, 1964.

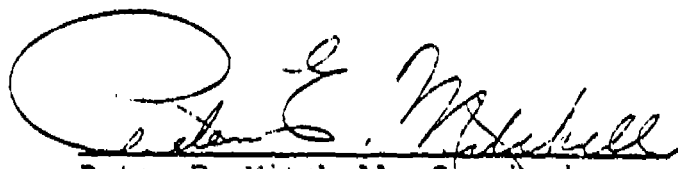
William W. Bennett
President

Robert R. Brown
George L. Traver
Fredrick B. Helbluff
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