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**ORIGINAL**

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

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

In the Matter of the Application of )  
 M & N TRUCK LINE, a corporation, )  
 for exemption from certain require- )  
 ments of General Order No. 84-D. )

Application No. 45972  
 (Filed November 19, 1963)

O P I N I O N

By this application M & N Truck Line, a corporation, operating as a highway common carrier of general freight, seeks authority to be exempted 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 It was superseded by General Order No. 84-E, effective February 1, 1964.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.

<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.

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 financial burden and hardship. Applicant says that compliance with the provisions of paragraph 7(h) would consume valuable driver time to determine whether or not C.O.D. shipments were being received, and, when they were, to prepare additional documentation as required by the order. In addition, it is asserted, the drivers would require constant supervision by officers of the corporation to see that the entire documentation was provided and to make certain that driver employees fully understood what they were supposed to do. Since the drivers handle both interstate and intrastate shipments, the practices would vary with the type of traffic that was picked up. Assertedly, this would require a management check of almost every bill to determine whether it was an interstate or intrastate shipment because the driver would normally be unable to resolve this issue.

Applicant alleges that the great bulk of its customers have full knowledge of the fact that applicant has a bond on file with the Public Utilities Commission and that in the event applicant should default in payment of C.O.D. charges which it collected, the injured party may proceed directly against the bonding company. Applicant further alleges that throughout the period of its operation, it has handled a large volume of C.O.D. shipments and has

never defaulted in payment nor been subjected to a suit for failure to meet its obligation to remit C.O.D. funds entrusted to it.

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. 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 a public hearing would serve no useful purpose. A public hearing is not necessary. 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. 45972, 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 L. Mitchell

George W. Rego

George E. Trover

Fredrick B. Hololoff  
Commissioners