

Decision No. 66861**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates and practices of OVERNITE) Case No. 7768
 MOTOR EXPRESS, a corporation.)

Jack D. Marpole, for Theatre Transit Co.,
Armand Karp, for Callison Truck Lines,
 interested parties.
B. A. Peeters, for the Commission staff.

O P I N I O N

By its order dated November 5, 1963, the Commission issued its order instituting an investigation into the operations, rates and practices of Overnite Motor Express, a California corporation.

A public hearing was held before Examiner Gravelle on January 21, 1964, at San Francisco.

Respondent presently holds operating authority issued by this Commission consisting of Highway Contract Carrier Permit No. 38-6448 dated March 27, 1957, City Carrier Permit No. 38-6117 dated June 11, 1957 and a certificate of public convenience and necessity granted by Decision No. 57167 dated August 12, 1958 in Application No. 39982 as a highway common carrier.

Neither respondent nor any party other than the Commission staff presented evidence at the hearing although two interested parties entered appearances. Counsel for the staff offered three exhibits which were received in evidence. Exhibit No. 1 is an affidavit executed and signed by Ralph E. Schulz which states in effect that Mr. Schulz was the major stockholder of respondent and its vice president and that he abandoned the certificated portion of respondent's operations on or about August 2, 1963 without securing

authorization of this Commission and that he further, on October 1, 1963, caused to be made an Assignment for Benefit of Creditors to the Board of Trade of San Francisco which consisted of all the corporate assets of respondent without first securing the authorization of this Commission. The affidavit also states that all trucking operations both certificated and permitted ceased as of October 1, 1963 and have not been resumed.

Exhibit No. 2 is a certified copy of the Assignment for the Benefit of Creditors referred to in Exhibit No. 1 and dated October 1, 1963; it is signed by Ralph E. Schultz and T. P. Tripodes.

Exhibit No. 3 is an affidavit of James Connors which states in effect that Mr. Connors is the attorney for the Board of Trade of San Francisco, that there has been no attempt made by the Board to sell respondent's certificate, no offers to purchase have been received, and the Board believes the certificate to be without monetary value. The affidavit further states that the Board as assignee has no objection to revocation of the certificate.

A staff witness testified that respondent had dealt primarily in the business of transporting and distributing motion picture film, that respondent had not provided such service since August of 1963, that such service was presently provided by at least six other carriers and that there had been no complaints of which he was aware as to lack of this type of service made by the shipping public. He also testified that all the physical properties of respondent had been sold at auction on November 15, 1963 and that respondent had ceased all operations as of October 1, 1963.

In his closing statement counsel for the staff pointed out that respondent had abandoned all its operations without Commission

authorization, had assigned all its operating properties without Commission authorization, that the public was presently being adequately provided with service and that there was no need for the service of respondent. He recommended that all respondent's operating authority be revoked.

After consideration the Commission finds that:

1. Respondent has been issued highway contract and city carrier permits.
2. Respondent has been granted a certificate of public convenience and necessity as a highway common carrier.
3. Respondent has abandoned its operations as a carrier of property without the prior authorization of this Commission.
4. Respondent has assigned all of its assets without the prior authorization of this Commission.
5. Respondent has not performed its obligation as a carrier of property since October 1, 1963.
6. There have been no complaints from the shipping public as to any lack of the service which was provided by respondent prior to October 1, 1963.

Based upon the foregoing findings of fact, the Commission concludes that all of the operating authorities of respondent should be revoked.

O R D E R

IT IS ORDERED that:

1. Highway Contract Carrier Permit No. 38-6448 dated March 27, 1957 and City Carrier Permit No. 38-6117 dated June 11, 1957 are hereby revoked.

2. The certificate of public convenience and necessity granted to Overnite Motor Express by Decision No. 57157 dated August 12, 1958 in Application No. 39982 is hereby revoked and Local Freight Tariff No. 1 Cal. P.U.C. No. 1, issued by R. J. Schulz, Manager, is hereby canceled.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of September, 1964.

William L. Bennett
 President

George H. Hoover

Frederic B. Hallock
 Commissioners