

Decision No. 66867

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
J & J TRUCK LINE, a corporation, for )  
exemption or deviation from the )  
requirements of General Order No. 84-D.)

Application No. 45852  
(Filed October 10, 1963)

Dooley and Dooley, by David M. Dooley, for applicant.  
Arthur F. Burns, for the Commission staff.

O P I N I O N

Applicant is a corporation operating as a highway common carrier of general commodities between points in the vicinity of San Francisco Bay from San Francisco, Richmond, Pittsburg and Antioch, on the north, to Carmel, Carmel Valley and Hollister, on the south. By this application, as amended, it seeks authority to be exempted or to deviate from the provisions of paragraph 7(d) of General Order No. 84-E.<sup>1/</sup> 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.

This application was heard before Examiner Lane at San Francisco on January 24, 1964. Evidence in support of the application was adduced through a vice president of applicant. A member of the Commission staff assisted in the development of the record. No one protested the granting of the application.

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<sup>1/</sup> General Order No. 84-E, adopted effective February 1, 1964 by Decision No. 66552, dated December 27, 1963 in Case No. 7402, superseded General Order No. 84-D. The application, initially filed seeking relief from General Order No. 84-D, was orally amended at the hearing to seek relief from General Order No. 84-E. The provisions of paragraph 7(d) of the two general orders are identical insofar as this application is concerned.

Paragraph 7(d) of General Order No. 84-E provides that highway common carriers (among others) shall:

"Not accept checks or drafts (other than certified checks, cashier's checks, or money orders) in payment of C.O.D. charges unless authority has been received from the consignor."

Applicant, according to its witness, transports shipments locally over its lines only. In conjunction with this transportation, it provides an overnight service six days a week which is essential to the shippers and consignees it serves. It handles about 3,250 shipments per month, of which between 110 and 125 are C.O.D. shipments. Applicant has attempted with little success to secure from its shippers advance authorization to accept personal checks in payment of C.O.D. moneys. The witness asserted that applicant has found it impractical to require drivers to attempt to secure such authorizations when C.O.D. shipments are made because the delays experienced make overnight service virtually impossible.

Applicant alleges that it has made a practice in the past of accepting consignees' checks in payment of C.O.D. amounts, with or without shipper authorization; that if payment of any such check was withheld or could not be made applicant assumed the responsibility for such payment; and that it has never received a complaint from any of its shippers with respect to this practice.

Applicant further alleges that the sought authority is necessary to enable it to continue to provide overnight service required by its patrons.

The provisions of paragraph 7(d) of General Order No. 84-E were established principally for the protection of shippers. Under the general order shippers are free to waive such protection. As the evidence shows, applicant's shippers generally have not seen fit to authorize applicant to accept personal checks in payment of C.O.D. amounts. The Commission finds that the sought deviation has not been justified.

The application, as amended, should be denied.

O R D E R

IT IS ORDERED that Application No. 45852, as amended, is denied.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of February, 1964.

*J. Hollinger Bennett*  
President  
*George L. Throver*  
*Frederick B. Hallock*  
Commissioners