

**ORIGINAL**Decision No. 67091

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of 20th CENTURY TRUCKING COMPANY,	)	Application No. 45840
a corporation, for exemption or	)	(Filed October 4, 1963;
deviation from the requirements	)	Amended February 6, 1964)
of General Order No. 84-D.	)	

Franklin L. Knox, Jr., for applicant.  
Robert I. Shoda, for the Commission staff.

O P I N I O N

Applicant is a corporation operating as a highway common carrier, a radial highway common carrier and a city carrier. It provides service generally within and between Los Angeles Basin Territory, San Diego Territory and intermediate points. By this application, as amended, it seeks to be exempted from the requirements of paragraphs 7(a), 7(e) and 7(h) of General Order No. 84-E. 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 in Los Angeles on February 18, 1964. It was taken under submission upon the filing of the transcript on February 25, 1964. Evidence in support of the application was submitted by applicant's vice president. A member of the Commission staff assisted in the development of the record. Granting of the sought authority was not opposed.

The relief sought in this application is confined to shipments weighing 400 pounds or less of packages weighing under

100 pounds handled in applicant's special delivery service under its highway common carrier certificate and city carrier permit.<sup>1</sup>

According to applicant's vice president, applicant handles approximately 10,000 shipments a week of which about 75 are C.O.D. shipments. C.O.D. moneys are collected in cash on about 15 shipments each week. C.O.D. moneys on the remaining C.O.D. shipments are collected by check payable to the consignor.

Paragraph 7(a) of General Order No. 84-E provides that every highway common 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 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's vice president testified that under applicant's procedures, C.O.D. moneys normally are returned to the payee within two working days after collection from the consignee. When a week end and a holiday on a Friday or Monday intervene, a period of five calendar days would be involved. On C.O.D. shipments from Los Angeles to San Diego, he said an additional day may be required to remit C.O.D. moneys because of the distances involved. The record shows that applicant handles an average of only one C.O.D. shipment a week from Los Angeles to San Diego. The witness said he was unaware of any such shipment in which the time for remitting the C.O.D. moneys actually exceeded the five-day period.

According to the evidence, applicant remits C.O.D. moneys within five days after collection. Its prayer for relief is based

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<sup>1</sup> Applicant also holds a radial highway common carrier permit. It developed at the hearing that this permit is not involved herein.

upon the possibility that in the future it may violate the provisions of paragraph 7(a) of the general order through inadvertence. Applicant's showing is not persuasive that the sought relief is required. We find that the requested exemption from paragraph 7(a) of General Order No. 84-E has not been justified.

Under paragraph 7(e) of the general order, applicant is required when handling C.O.D. shipments to:

"\*\*\* notify the consignor immediately if a C.O.D. shipment is refused or cannot be delivered on the carrier's initial attempt. Upon instructions from the consignor the carrier may attempt subsequent deliveries, the charge for each such delivery, or attempted delivery, being determined by the applicable freight charges from carrier's terminal to the point of destination, but in no event less than the rate provided for mileages of less than three miles. The carrier may also return the shipment to the consignor upon his request, subject to a charge equal to the applicable freight charges on the original outbound movement."

Applicant alleges that it is engaged in a retail transportation business, competitive with United Parcel Service. In meeting this competition, applicant has made a practice of attempting three deliveries, where necessary, without additional charges. Upon three unsuccessful attempts at delivery or where the shipment is refused or cannot be delivered for some other reason, the shipment is automatically returned to the shipper without additional charge.

Provisions governing these services are currently published in applicant's Local Parcel Tariff, Cal. P.U.C. No. 3 as follows:

<u>Item No.</u>	<u>Refused Packages Returned Free</u>
50	Packages refused by consignees or which for any other reason cannot be delivered, will be promptly returned to the consignor without additional charge.

<u>Item No.</u>	<u>Deliveries Attempted 3 Times Without Extra Charge</u>
55	In case the carrier is unable to make delivery of a package because of the absence of the consignee, a nondelivery notice card will be left at the consignee's address stating that delivery has been attempted, thereafter a second and, if necessary, a third attempt to deliver the package will be made without additional charge."

Applicant's vice president testified that this practice has been an integral part of applicant's service for over 27 years and that changing these procedures would seriously disrupt applicant's operations. He also testified that this practice is similar to and competitive with that of United Parcel Service for which relief the same as that herein sought was granted to United Parcel Service by Decision No. 66574, dated January 7, 1964 in Application No. 45735. According to the witness, applicant's shippers are accustomed to this service and would not continue to patronize applicant if the service were stopped.

Based on the evidence, we find that:

1. Applicant operates a specialized delivery service competitive with United Parcel Service.
2. Three attempts to deliver shipments (including C.O.D. shipments) and free return of undelivered shipments are essential parts of its specialized service.

3. The request for exemption from the provision of paragraph 7(e) has been justified with respect to shipments weighing 400 pounds or less of packages weighing 100 pounds or less.

Paragraph 7(h) of General Order No. 84-E provides that every highway common 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 it has, over a period of time, developed a workable, streamlined system of documentation which is used uniformly for all consignors. Under this system applicant provides its shippers with books of shipping document forms consecutively numbered. The documents provide space to identify C.O.D. shipments and to record the amount of C.O.D. moneys to be collected. When the carrier's driver picks up shipments he receipts for the shipment on the shipping form, one copy of which the shipper retains with the book of documents. Applicant's shippers use shipping documents provided by applicant on over 99 percent of the shipments handled by applicant.

Applicant alleges that should it be required to comply with the provisions of paragraph 7(h), it would be presented with

problems which will affect its present efficient operation; that its documents do not allow sufficient space for recording the wording of paragraph 7(h), and to include the wording would result in a complete revision of applicant's present documentary system, both as to size of paper and size of filing facilities, which are designed for the present size of records.

It developed at the hearing that the required wording could be printed or affixed to the cover of the books of applicant's shipping documents. It further developed that this would be a more prominent place than having the information printed on the shipping document itself. Applicant's vice president indicated that this arrangement would present no serious problem to applicant.

Under the circumstances it appears that printing or affixing the information required by paragraph 7(h) of General Order No. 34-E on or to the covers of applicant's shipping-document books would be a reasonable substitute for printing or affixing this information on each shipping document in those books. The Commission finds that relief from paragraph 7(h) of the general order to the extent indicated above has been justified. With respect to C.O.D. shipments handled by applicant on shipping documents not supplied by it to shippers, the sought relief has not been shown to be justified.

The Commission concludes that the application should be granted to the extent set forth in the ensuing order and that in other respects it should be denied.

O R D E R

IT IS ORDERED that:

1. 20th Century Trucking Company is authorized in connection with C.O.D. shipments weighing 400 pounds or less of packages weighing 100 pounds or less to:

- (a) Deviate from the requirement of paragraph 7(e) of General Order No. 84-E to the extent it may attempt delivery of a shipment three times without additional charge and may return refused or undelivered shipments to shippers without additional charge. In the exercise of this authority, applicant shall amend its tariffs appropriately to reflect the authority granted.
- (b) Deviate from the provisions of paragraph 7(h) of General Order No. 84-E to the extent that it may print or affix the information required by said paragraph 7(h) on or to the covers of its books of shipping documents it provides its shippers instead of printing the information on each such shipping document.

2. Tariff publications authorized to be made as a result of the order in paragraph 1(a) above may be made effective not earlier than ten days after the effective date hereof on not less than ten days' notice to the Commission and to the public.

3. In all other respects, Application No. 45840, as amended, is denied.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of APRIL, 1964.

William G. Bennett  
President  
Robert J. [unclear]  
Robert [unclear]  
George L. Trover  
Frederick B. Hallock  
Commissioners