

**ORIGINAL**

Decision No. 68095

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of FRANK J. KIRKPATRICK, for a )  
certificate of public convenience )  
and necessity to operate service )  
as a petroleum irregular route )  
carrier over all public highways )  
and between all points and places )  
in the State of California. )

Application No. 31231

ORDER SUSPENDING OPERATIVE RIGHT

Frank J. Kirkpatrick, doing business as Airway Transportation Co., possesses a certificate of public convenience and necessity to operate as a petroleum irregular route carrier for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

The Commission received a copy of a cancellation notice dated June 2, 1964, addressed to Frank J. Kirkpatrick whereby Western Motor Tariff Bureau, Inc., Agent, notified him that his participation in various tariffs would be canceled effective September 5, 1964.<sup>1</sup>

By letter from the Secretary of the Commission, Frank J. Kirkpatrick was placed on notice that his certificate would be subject to suspension or revocation, pursuant to lawful procedures, should he fail to maintain tariffs in effect. The publishing agent filed with

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<sup>1</sup> The tariffs are Western Motor Tariff Bureau, Inc., Agent, Scope of Operation and Participating Carrier Tariff No. 4, Cal.P.U.C. No. 6; Distance Table No. 4, Cal.P.U.C. No. 15 (J. L. Beeler, Agent, Series); Local Freight and Express Tariff No. 3-D, Cal.P.U.C. No. 25, (Elmer Ahl, Agent, Series) and Local Freight Tariff No. 33-B, Cal.P.U.C. No. 27, (Elmer Ahl, Agent, Series).

this Commission tariff revisions canceling the participation of Frank J. Kirkpatrick, doing business as Airway Transportation Co., on September 5, 1964. Frank J. Kirkpatrick has not filed tariffs to replace the canceled tariffs.

Section 486 of the Public Utilities Code requires that common carriers of property file with this Commission schedules showing their rates and classifications and Section 493 of the Code provides that no common carrier shall engage or participate in the transportation of property until its schedules of rates and classifications have been filed.

The required tariffs not being on file, the Commission finds that such failure constitutes good cause for the suspension of this carrier's certificate, and

IT IS ORDERED that:

1. The certificate of public convenience and necessity to operate as a petroleum irregular route carrier granted to Frank J. Kirkpatrick by Decision No. 44388 dated June 20, 1950, in Application No. 31231 is hereby suspended pending further order.

2. All otherwise effective tariff schedules of such carrier filed pursuant to the certificate granted by the decision referred to above are hereby suspended. Suspension supplements to tariff filings so suspended are not required and shall not be filed.

The Secretary is directed to cause service of a certified copy of this order to be made upon Frank J. Kirkpatrick or to mail a certified copy thereof to him at his last known address as shown in the Commission's records.

The effective date of this order shall be the twentieth day after such service upon Frank J. Kirkpatrick, or after the above mailing to Frank J. Kirkpatrick, as the case may be, 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 be stayed until further order of the Commission.

Dated at San Francisco, California, this 20<sup>th</sup> day of October, 1964.

Frederick B. Hallock  
President  
Richard D. Fitch  
Walter A. Fagan  
George L. Hoover

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.