

Decision No. 70925**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
practices, rates, charges and
contracts of R. W. JONES, JR., and
ARTHUR A. AMAREL, doing business as
A & J Trucking; IRA M. WOOLERY,
ROBERT L. BURNS, AETNA KADOI,
LLOYD HODGES, D. W. CUSHMAN,
C. F. MOORE, SR., C. F. MOORE, JR.,
and PAUL V. STEVENSON.

Case No. 7399

B. A. Peeters and J. B. Hannigan,
for the Commission staff.
Dooley & Dooley, by David M. Dooley,
for respondents R. W. Jones, Jr. and
Arthur A. Amarel, doing business as
A & J Trucking.

O P I N I O N

By its order dated September 8, 1965 the Commission reopened the above-entitled proceeding for the purpose of determining whether R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, had failed to comply with ordering paragraph 4 of Decision No. 65310.

A public hearing was held before Examiner Porter on February 9 and 17, 1966, at San Francisco at which time the matter was submitted.

By Decision No. 65310 R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, were ordered to "pay to such other carriers, the difference between the lawful minimum rates and charges applicable to such transportation and the amounts previously paid to such other carriers" after a review of their records relating to transportation performed on behalf of R. W. Jones Grain wherein A & J Trucking employed other carriers to effect such transportation.

Motions were made by respondents (Jones and Amarel) for a continuance or for a dismissal of the action on the grounds that the

other respondents (Woolery, et al.) in Case No. 7399 were not before the Commission. The motion for a continuance was denied.

The evidence pertinent to this proceeding was that audits had been prepared by respondent and the other carriers involved. These audits were filed with the Commission.

Discussion

While this proceeding was reopened to determine whether or not R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, have failed to comply with ordering paragraph 4 of Decision No. 65310, these respondents argued that this issue could not be resolved without considering ordering paragraph 5 of the said decision and that these ordering paragraphs should be read in the same context. Ordering paragraphs 4 and 5 of Decision No. 65310 read as follows:

- "4. R. W. Jones, Jr., and Arthur A. Amarel, doing business as A & J Trucking, shall review their records relating to all transportation performed in behalf of R. W. Jones Grain wherein A & J Trucking employed other carriers to effect such transportation between August 26, 1961 and the effective date of this order, and shall pay to such other carriers the difference between the lawful minimum rates and charges applicable to such transportation and the amount previously paid to such other carriers."

Ordering paragraph 5 of said decision reads as follows:

- "5. Ira M. Woolery, Robert L. Burns, Aetna Kadoi, Lloyd Hodges, D. W. Cushman, Paul V. Stevenson, C. F. Moore, Sr., and C. F. Moore, Jr., shall review their records relating to all transportation wherein they were engaged by A & J Trucking to transport property in behalf of R. W. Jones Grain between August 26, 1961 and the effective date of this order for the purpose of ascertaining the lawful minimum rates for such transportation, and shall take such action, including legal action, as may be necessary to collect the difference between the lawful minimum rates and the amounts they received for such transportation."

R. W. Jones, Jr. and Arthur A. Amarel doing business as A & J Trucking, argued that they need not comply fully with the Commission's order

since some of the claims presented to them by the respondents in ordering paragraph 5 of Decision No. 65310 were barred by the statute of limitations. These respondents took the position that, if actions had been filed against them in the courts, they would not have been precluded from raising in the courts the statute of limitations as a defense to the payment of the disputed amounts. Staff counsel, on the other hand, argued that there was no statute of limitations to an order of the Commission.

Finding and Conclusion

We restate our position and rationale taken in the decision entered today in the Alhambra Trucking Co., et al., reopened proceeding in Case No. 7243. We find that these respondents failed to comply fully with ordering paragraph 4 of Decision No. 65310. However, since R. W. Jones, Jr. and Arthur A. Amarel in good faith relied upon the statute of limitations for not complying fully with said decision the Commission, here too, will not impose any further sanctions upon R. W. Jones, Jr. and Arthur A. Amarel.

The Commission affirms its order made in Decision No. 65310 and will further order R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, to comply with ordering paragraph 4 of Decision No. 65310.

O R D E R

IT IS ORDERED that:

1. Ordering paragraph 4 of Decision No. 65310 is hereby affirmed.
2. R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, shall file a report within sixty days after the effective date of this decision of the action taken to pay the amounts

set forth in its audit filed with this Commission pursuant to ordering paragraph 6 of Decision No. 65310.

3. In the event payments referred to in ordering paragraph 4 of Decision No. 65310 have not been made within ninety days after the effective date of this order, R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking, shall file with the Commission on the first Monday of each month after the end of said ninety days a report of the amounts remaining to be paid and the action taken to pay such amounts, until such amounts have been paid in full or until further order of the Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon R. W. Jones, Jr. and Arthur A. Amarel, doing business as A & J Trucking. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 1st day of JULY, 1966.

Frederick B. Hollitt
President

George T. Trover

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Commissioners

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