

ORIGINALDecision No. 71708

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the rates, operations,)
 and practices of R. A. BASKIN and)
 MORRIS H. WILLIS, doing business as)
 BASKIN & WILLIS. }

Case No. 8451
 (Filed June 21, 1966)

Phil Jacobson, for respondent.
David Larrouy and E. E. Cahoon, for
 the Commission staff.

O P I N I O N

By its order dated June 21, 1966, the Commission instituted an investigation into the operations, rates and practices of R. A. Baskin and Morris H. Willis, doing business as Baskin & Willis, hereinafter referred to as respondents.

Public hearing was held before Examiner Mooney in Los Angeles on July 27, 1966, on which date the matter was submitted.

Respondents presently conduct operations pursuant to a radial highway common carrier permit. They have a terminal in Saticoy, California. Respondents own and operate seven tractors, seven dump trailers and two dump trucks. They have ten employees. Their gross operating revenue for the year 1965 was \$329,267. Respondents were served with Minimum Rate Tariffs Nos. 7 and 17 and Directory No. 1, together with all supplements and additions thereto.

On February 7 through 11, 1966, a representative of the Commission's field section visited respondents' place of business and checked their records for the period from October 16, 1965 through January 14, 1966. The representative testified that approximately 300 freight bills were issued by respondents during

this period and that approximately 90 percent of said documents did not comply with the documentation requirements of the Commission's dump truck tariffs (Minimum Rate Tariffs Nos. 7 and 17). He stated that he made true and correct photostatic copies of 23 of the freight bills and that they are all included in Exhibit 1. The witness pointed out that the documents in Parts 1 through 16 of Exhibit 1 do not comply with the documentation requirements of paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 which sets forth the information that must be shown on the hourly service freight bills for transportation performed under the hourly rates in Section No. 4 of the tariff; that the documents in Parts 17 and 18 of the exhibit do not comply with the documentation requirements of paragraph (b) of Item 93 of Minimum Rate Tariff No. 7 which sets forth the information that must be shown on the shipping order and freight bills for transportation under the distance rates in Section 2 of the tariff or the production areas to delivery zone rates in Section 3 of the tariff; and that the documents in Parts 19 through 23 of the exhibit do not comply with the documentation requirements of paragraph (a) of Item 480 of Minimum Rate Tariff No. 17 which sets forth the information that must be shown on the shipping documents for transportation under zone rates in that tariff. He indicated the specific information required by the applicable documentation rule that was missing from each of the 23 documents. The representative testified that respondents use subhaulers in addition to their own equipment. He explained, however, that all of the transportation covered by Exhibit 1 was performed by respondents' equipment.

Counsel for respondents pointed out that there were underlying documents prepared by the shipper for each of the shipping

documents included in Parts 19 through 23 of Exhibit 1; that these were the shipper's orders and were the basis for dispatching the trucks for particular jobs involved; that the information required by paragraph (a) of Item 480 of Minimum Rate Tariff No. 17 which was not shown on the carrier's shipping document is shown on the shipper's order; and that the shipper's orders were in respondents' file at the time of the investigation and were made available to the staff representative at that time. The staff witness testified that he did not recall seeing any underlying documents during his investigation.

In closing, counsel for respondents argued that the documentation requirements in Minimum Rate Tariffs Nos. 7 and 17 are extremely complex; that it is unreasonable to expect truck drivers to fill in all of the detailed information required by the documentation rules on shipping documents; that revised simplified documentation requirements for the dump truck tariffs are being suggested by the Commission's rate section in a rate proceeding now before the Commission in the phase of Case No. 5437 covered by Order Setting Hearing dated March 22, 1966. He recommended that the matter be dismissed.

The sole issue before the Commission in this proceeding is whether or not respondents have complied with the documentation requirements of Minimum Rate Tariffs Nos. 7 and 17. There is no evidence of falsification of documents or charging less than minimum rates herein.

The record clearly establishes that respondents did not complete the documents in Exhibit 1 in accordance with the documentation requirements of Minimum Rate Tariffs Nos. 7 and 17 that were

in effect at the time the transportation moved. Even though all of the information required by paragraph (a) of Item 480 of Minimum Rate Tariff 17 that is not shown on the documents in Parts 19 through 23 of Exhibit 1 may have been shown on the written orders from the shipper to the carrier for the transportation, this does not comply with the tariff rule which requires that all information listed in the item be shown on the shipping document issued by the carrier to the shipper.

The documentation failures herein are similar to the type involved in the Investigation of Elmo V. LaMarr, doing business as LaMarr Dump Truck Service. The discussion in the decision^{1/} in the LaMarr case regarding the necessity of complying with the documentation requirements for the hourly service freight bill in paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 applies equally to the requirements for the shipping order and freight bill in paragraph (b) of said tariff and to the requirements for the shipping document in paragraph (a) of Item No. 480 of Minimum Rate Tariff No. 17. If the documentation is incorrect or incomplete the Commission cannot determine from a review thereof whether rates no lower than the applicable minimum rates are being assessed by a carrier. Failure to meet the documentation requirements in Minimum Rate Tariffs Nos. 7 and 17 will not be tolerated.

As indicated above, we are concerned here with the issue of whether or not respondents complied with the documentation rules that were in effect at the time the transportation covered by the documents in Exhibit 1 moved. The fact that the Commission may now have proposals before it in any other proceedings to amend the documentation rules is not relevant or material to this case.

^{1/} Decision No. 71507, in Case No. 8397, dated November 9, 1966.

As to the penalty to be assessed, we concur with the recommendation by the Commission staff that respondents be directed to cease and desist from further violations of the documentation requirements. The failure to comply with any directive, order or rule of the Commission is a serious matter and will not be overlooked. Respondents' operating authority also will be made subject to a one-year suspension if further violation of the documentation requirements occurs during the following one-year period.

The Commission finds that:

1. Respondents operate pursuant to a radial highway common carrier permit. ✓
2. Respondents were served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions thereto.
3. Respondents have not properly completed and executed "Shipping Order and Freight Bills" as required by paragraph (b) of Item 93 of Minimum Rate Tariff No. 7, "Hourly Service Freight Bills" as required by paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 and "Shipping Documents" as required by paragraph (a) of Item 480 of Minimum Rate Tariff No. 17 in the instances set forth in Exhibit 1.

The Commission concludes that:

1. Respondents violated Sections 3704 and 3737 of the Public Utilities Code.
2. Respondents' operating authority should be suspended, pursuant to Sections 3774 of the Code, for a period of one year with the execution thereof deferred during said one-year period. If,

at the end of the one-year period, the Commission is satisfied that respondents are in substantial compliance with the documentation requirements in issue, the suspension will be vacated without further order of the Commission.

The staff of the Commission will make a subsequent field investigation to determine whether respondents are complying with the documentation requirements in issue. If there is reason to believe that respondents are continuing to violate said provisions, the Commission will reopen this proceeding for the purpose of formally inquiring into the circumstances and for the purpose of determining whether the one-year suspension or any further sanctions should be imposed.

O R D E R

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 56-1685 issued to R. A. Baskin and Morris H. Willis, doing business as Baskin & Willis, is hereby suspended for a period of one year; provided, however, that the execution thereof is hereby deferred pending further order of this Commission. If no further order of this Commission is issued affecting said suspension within one year from the date of issuance of this decision, the suspension shall be automatically vacated.

2. Respondents shall cease and desist from violating the documentation provisions of the Commission's minimum rate tariffs.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondents. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 13th day of DECEMBER, 1966.

John E. Mitchell
President
George L. Grover
Fredrick B. Holloff
Augusta
William W. Bennett
Commissioners