

ORIGINAL

Decision No. 72011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the rates, operations, and practices of JOHN KOSAREFF.

Case No. 8475  
(Filed July 19, 1966)

Phil Jacobson, for John Kosareff,  
respondent.  
Sergius M. Boikan and Richard Carlin, for the Commission staff.

O P I N I O N

By order dated July 19, 1966 the Commission instituted an investigation into the rates, operations, and practices of John Kosareff. Public hearing was held at Los Angeles before Examiner Robert Barnett on October 5, 1966 at which time the matter was submitted.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 19-38235 and City Carrier Permit No. 19-38521. It was stipulated that respondent had been served with Minimum Rate Tariff No. 7 (MRT 7) and supplements thereto. The order instituting investigation alleges that respondent may have violated Sections 3737, 3704, 4044, and 4077 of the Public Utilities Code by failing to complete, execute, and retain shipping documents in the form and manner prescribed by Items 93 and 93.1 of MRT 7.

Respondent owns 15 pieces of equipment, employs six drivers, and has his terminal in Glendora. His gross revenue from operations for the calendar year 1965 was \$74,938.97.

It was stipulated that neither undercharges nor falsification of documents were issues in this proceeding.

The staff presented one witness, a Transportation Representative, who testified that he inspected respondent's records for the period January 1, 1966 to March 31, 1966. Twenty freight bills were copied and introduced into evidence. In the witness's opinion all twenty freight bills did not comply with the documentary requirements specified in Item 93.1 of MRT 7 in that certain required information was omitted therefrom. It would serve no useful purpose to set forth all the omissions as they are numerous and there is no dispute as to their occurrence. Selected omissions include: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and over-all time. The omitted information is necessary to determine whether the rate assessed for the transportation is correct.

Respondent's dispatcher testified that he made out the freight bills; that he was not aware of the documentation requirements until the staff began its investigation; and that he wants to comply with the law.

Findings of Fact

1. Respondent operates pursuant to city carrier and radial highway common carrier permits.
2. Respondent was served with MRT 7 and supplements.
3. Respondent omitted to insert part of the information required by Item 93.1 of MRT 7 on his freight bills. The information omitted includes, but is not limited to: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and over-all time.
4. Respondent did not violate Item No. 93 of MRT 7.

Conclusion of Law

Based on the foregoing findings of fact the Commission concludes that respondent violated Sections 3737 and 3704 of the Public Utilities Code and that respondent's operating authority should be suspended, pursuant to Section 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 respondent is 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 respondent is complying with the documentation requirements in issue. If there is reason to believe that respondent is 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. 19-38235 and City Carrier Permit No. 19-38521 issued to John Kosareff are 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. Respondent 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 respondent. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 15th day of FEBRUARY 1967.

[Signature]  
President  
[Signature]  
[Signature]  
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Commissioners