

**ORIGINAL**

Decision No. 72013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the rates,  
operations, and practices of  
M. J. HOMEN TRUCKING, INC.

Case No. 8477  
(Filed July 19, 1966)

Phil Jacobson, for M. J. Homen  
Trucking, Inc., 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 M. J. Homen Trucking, Inc. Public hearing was held at Los Angeles before Examiner Robert Barnett on October 6, 1966 at which time the matter was submitted.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 1-7809 and City Carrier Permit No. 36-3711. It was stipulated that respondent had been served with Minimum Rate Tariff No. 7 (MRT 7), Minimum Rate Tariff No. 17 (MRT 17), 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 as required by Items 47 and 93.1 of MRT 7 and Item 480 of MRT 17.

Respondent operates 16 tractors and 48 sets of trailers from its terminal in Upland and employs 27 persons. Its gross revenue from operations for the calendar year 1965 was \$1,150,061.74. Respondent operates as a carrier and as an overlying carrier.

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 November 1, 1965 to January 31, 1966. Seventeen freight bills were copied and introduced into evidence. In the witness's opinion all seventeen freight bills did not comply with the documentary requirements specified in Item 480(a) of MRT 17 and Item 93.1 of MRT 7 in that certain required information was omitted from the freight bills. 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: production area; delivery zone; type of loading at origin; starting-ending-elapsed running time of last trip; and starting-ending-elapsed unloading time of last trip. The omitted information is necessary to determine whether the rate assessed for the transportation is correct.

The evidence shows that six of the freight bills involve subhauls and that these freight bills were prepared by the subhauler who performed the transportation. Respondent claims that even though errors in documentation were made, he is relieved of responsibility for such errors because subhaulers prepared the documents and performed the transportation. This claim has been determined adversely to respondent in Investigation of Accelerated Dump Trucks, Inc. (Decision No. 71658 in Case No. 8412 dated December 6, 1966.) In Accelerated we said "the principal or overlying carrier who is engaged by the shipper to perform the transportation is responsible for errors in documentation irrespective of whether the documentation is prepared by said carrier or by the underlying carrier (subhauler)." (At sheet 5.)

Findings of Fact

The Commission finds that:

1. Respondent operates pursuant to city carrier and radial highway common carrier permits.
2. Respondent was served with Minimum Rate Tariff No. 7, Minimum Rate Tariff No. 17, and supplements.
3. Respondent was an overlying carrier who employed underlying carriers to perform transportation for it. Both respondent and its underlying carriers omitted to insert part of the information required by Item 93.1 of Minimum Rate Tariff No. 7 and Item 480(a) of Minimum Rate Tariff No. 17 on freight bills prepared by themselves. The information omitted includes, but is not limited to: production area; delivery zone; type of loading at origin; starting-ending-elapsed running time of last trip; and starting-ending-elapsed unloading time of last trip.

Conclusions of Law

Based on the foregoing findings of fact, the Commission concludes that:

1. Respondent is responsible for errors or omissions in the preparation of freight bills committed by underlying carriers in its employ.
2. Respondent violated Sections 3737 and 3704 of the Public Utilities Code.
3. 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. 1-7809 and City Carrier Permit No. 36-3711 issued to M. J. Homen Trucking, Inc., 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 15<sup>th</sup> day of FEBRUARY 1967.

*Robert E. Mitchell*  
President

*William L. Bennett*

*Augustine*

*William L. Jones Jr.*

*Paul P. Moussey*  
Commissioners