

**ORIGINAL**

Decision No. 72070

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the rates, operations,  
and practices of HARRISON-NICHOLS  
CO., LTD.

Case No. 8450  
(Filed June 21, 1966)

Phil Jacobson, for respondent.

E. O. Blackman, for California Dump  
Truck Owners Association,  
interested party.

David R. Larrouy and Richard Carlin,  
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 Harrison-Nichols Co., Ltd., a corporation.

Public hearing was held before Examiner Mooney on July 27 and October 26, 1966, at Los Angeles.

Respondent presently conducts operations as a dump truck carrier pursuant to radial highway common carrier, highway contract carrier and city carrier permits. Respondent has an office in Irwindale, California. It does not operate a terminal. In addition to its officers, it has one employee, and it owns three trailers. Respondent's gross operating revenue for the last three quarters of 1965 and the first quarter of 1966 was \$1,185,650. Respondent was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.

C. 8450 ds

On February 16 and 17 and March 28, 1966, a representative of the Commission's field section visited respondent's place of business and checked its transportation records for the period from October 15, 1965 to December 31, 1965. The representative testified that during said period respondent issued 782 shipping documents and that none of the shipping documents include all of the information required to be shown thereon by the applicable documentation requirements. He stated that because of missing information, it is not possible to determine whether respondent assessed the applicable minimum rate and charge for any of the transportation in issue. The staff does not contend in this proceeding, however, that respondent charged less than minimum rates or falsified its documents.

The representative testified that he made true and correct photostatic copies of twenty of the shipping documents he reviewed, which covered transportation subject to the Highway Carriers' Act; that the copies are all included in Exhibit 1 as Parts 1 through 20 thereof; and that he has listed in Exhibit 2 the specific information required to be shown on the shipping document issued by the carrier to the shipper by paragraph (a) of Item 480 of Minimum Rate Tariff No. 17 which, in his opinion, is missing from the documents in Exhibit 1. He stated that all of the documents in Exhibit 1 were prepared by respondent and the transportation covered thereby was performed by subhauliers. The witness explained that the subhauliers also prepared a document which was furnished to respondent; that the subhauler documents do not include all of the missing information; and that only the documents prepared by respondent were submitted to the shipper.

C. 8450 ds

According to Exhibit 2, none of the documents in Exhibit 1 include the information required to be shown thereon by the following subparagraphs of paragraph (a) of Item 480: (3) point of origin and production area; (4) point of destination; (5) description of shipment. In addition, Exhibit 2 purports to show that the documents in Parts 1, 5, 8, 13, 16, 19 and 20 of Exhibit 1 do not include the delivery zone for all of the shipments listed on each document as required by subparagraph (4).

The representative testified that he was informed by respondent that the commodity transported was rock and stone and that all of the transportation was subject to Tariff No. 17. He stated that he verified that all origins and destinations were located in production areas and delivery zones listed in the tariff.

Respondent's counsel pointed out that a code number is shown under the column headed "Delivery from Plant" for each shipment on the documents in Exhibit 1 and that respondent maintains a list which identifies the precise location of the origin and the production area which each code number represents. It is the position of the staff that subparagraph (3) requires that the precise location of the origin and the production area listed in the tariff be shown on the face of the document and that a code number does not satisfy this requirement.

With respect to subparagraph (4) which requires that the destination and delivery zone be shown on the shipping document, respondent's counsel pointed out that although the city is not shown, the street or freeway intersection to which each shipment was delivered is shown on the documents; that the delivery zone is shown for most of the shipments; and that in

those few instances in which the delivery zone is not shown, it is readily apparent from the street or freeway intersection which delivery zone is involved.<sup>1/</sup> It is the staff position that it is essential to show the city in which the street or freeway intersection is located, otherwise the point of destination cannot be determined with any degree of certainty from the document; that showing the production area does not cure this deficiency; and that subparagraph (4) specifically requires that the delivery zone be shown for each and every shipment.

Respondent's counsel admitted that the commodity description as required by subparagraph (5) was not shown on any of the documents. He argued, however, that it was apparent from the fact that the point of origin was a plant that the commodity transported was rock or gravel.

A motion by respondent's counsel to dismiss the investigation was opposed by the staff.

#### Discussion

While it is recognized that code designations are extensively used in industry today in connection with data processing, we concur with the staff that subparagraph (3) requires that the precise location of the origin of the shipment and the production area both be shown on the face of the shipping document. The purpose of the tariff rule in issue is to assure that all information necessary to rate the transportation is clearly shown on the shipping document and thereby to obviate the necessity of looking beyond the document for any essential information. The code designations used by respondent for origins and production areas are not explained

---

<sup>1/</sup> The 20 documents in Exhibit 1 cover the transportation of 193 loads of rock and stone. The delivery zone was shown for all but 23 loads.

C. 8450 ds

on the documents herein. It is necessary to refer elsewhere to determine the location and production area they represent. In the absence of specific authority from the Commission, code designations which are not explained on the document may not be used as a substitute for the required information.

We likewise agree with the staff that subparagraph (4) requires that the complete address of the destination and the delivery zone must be shown on the shipping document. It is not sufficient to show merely a street address or an intersection. If the destination is located in a city, the city must be shown. If it is not, the destination must be described with sufficient certainty so it is obvious to anyone where it is located. Although, as respondent's counsel suggests, it is possible to determine the delivery zone if the destination is known, the tariff, nonetheless, requires that the delivery zone be shown on the shipping document.

The commodity description has not been shown on any of the documents in Exhibit 1. Assuming, as respondent's counsel contends, that it should be obvious to anyone that the commodity transported was rock and gravel, the fact remains that subparagraph (5) requires that it be shown on the shipping document, and this was not done.

With respect to the question of whether respondent is responsible for errors or omissions in the shipping document when the transportation was actually performed by a subhauler, we have consistently held that the overlying carrier engaged by the shipper is not relieved of responsibility for such errors or omissions irrespective of whether said overlying carrier, the subhauler or anyone else prepares the document.

We are here concerned with the question of whether or not respondent complied with the documentation rules that were in effect at the time the transportation covered by the documents in Exhibit 1 was performed. The fact that the Commission may now have proposals before it in any other proceeding to amend the documentation rules is not relevant or material to this case.

The Commission finds that:

1. Respondent operates pursuant to radial highway common carrier, highway contract carrier and city carrier permits.

2. Respondent was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.

3. Respondent is responsible for compliance with the documentation requirements of paragraph (a) of Item 480 of Minimum Rate Tariff No. 17, irrespective of whether the documentation is prepared by respondent, the subhauler who performed the transportation or anyone else.

4. All information required by the tariff rule referred to in Finding 3 must be shown on the shipping document. Partial information is not acceptable. Code designations not explained on the document are not a satisfactory substitute for the required information.

5. Respondent has not properly completed and executed shipping documents as required by the tariff rule referred to in Finding 3 in the instances set forth in Exhibit 1.

The Commission concludes that:

1. Respondent violated Sections 3704 and 3737 of the Public Utilities Code.

2. Respondent's highway carrier 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.

3. Respondent's motion to dismiss the investigation should be denied.

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. 19-15493 and Highway Contract Carrier Permit No. 19-1493 issued to Harrison-Nichols Co., Ltd., a corporation, 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.

C. 8450 ds

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

3. The motion by respondent to dismiss the investigation herein is denied.

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 28<sup>th</sup> day of FEBRUARY, 1967.

William W. Bennett President  
William J. Sproule  
Neil P. Morrison Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner A. W. Catov, being necessarily absent, did not participate in the disposition of this proceeding.