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ORIGINAL

Decision No. 72071

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the rates, opera-)
tions, and practices of LA MIRADA)
TRUCKING, INC.)

Case No. 8465
(Filed July 12, 1966)

Phil Jacobson, for respondent.
David R. Larrouy and Richard Carlin,
for the Commission staff.

O P I N I O N

By its order dated July 12, 1966, the Commission instituted an investigation into the operations, rates and practices of La Mirada Trucking, Inc., a corporation.

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

Respondent presently conducts operations as a dump truck carrier pursuant to radial highway common carrier and city carrier permits. Respondent has a terminal in La Palma. It owns seven tractors and 20 sets of trailers. It employs three drivers, one mechanic and two field supervisors and has one office employee. Respondent's gross operating revenue for the year 1965 was \$915,685.59. It was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.

On March 8, 9 and 11, 1966, a representative of the Commission's field section visited respondent's place of business and checked its transportation records for the period November and December 1965 and January 1966. The representative testified that

he reviewed approximately 700 of the 2,385 documents issued during said period. He testified that he made true and correct photostatic copies of 15 of the hourly service freight bills he reviewed; that the copies are all included in Exhibit 1 as Parts 1 through 7 and 14 through 21 thereof; that respondent informed him the commodity covered by Parts 2 and 3 was dirt; and that he has listed in Exhibit 2 the specific information required to be shown on the hourly service freight bill by paragraph (c) of Item No. 93.1 of Minimum Rate Tariff No. 7 which, in his opinion, is missing from the documents in Exhibit 1.^{1/} The witness stated that because of the missing information, it was not possible to determine whether respondent assessed proper rates and charges for the transportation covered by the 15 documents in issue. All of the transportation covered by Exhibit 1 was performed by subhaulers who prepared the hourly service freight bills. Exhibit 1 covers transportation subject to both the City Carriers' and Highway Carriers' Acts. There are no allegations in this proceeding that respondent charged less than minimum rates or falsified its documents.

None of the documents in Parts 1 through 7 and 14 through 21 of Exhibit 1 include the information required to be shown thereon by the following subparagraphs of paragraph (c) of Item No. 93.1 of Minimum Rate Tariff No. 7: (11) type of loading; (13) time and location driver reported for work; (14) running time of last trip;

^{1/} At the request of staff counsel, Parts 8 through 13 of Exhibit 1 and the reference to said parts in Exhibit 2 were stricken. It developed at the hearing that the transportation covered by Parts 8 through 13 was performed on private property and was, therefore, exempt from regulation by the Commission.

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(15) unloading time of last trip. In addition, the documents in Parts 1 and 18 through 21 do not include the equipment number which is required by subparagraph (2), and the documents in Parts 2 and 3 do not include the commodity description which is required by subparagraph (12).

Respondent's counsel pointed out that his client was unable to obtain new document forms with spaces for recording all of the information required by paragraph (c) of Item No. 93.1 (which became effective October 16, 1965) until early 1966. His motion to dismiss the investigation was opposed by the staff.

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 and the subhauler prepared the document, 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 moved. The fact that the Commission may now have proposals before it in any other proceedings to amend the documentation rules is not determinative of this case.

The Commission finds that:

1. Respondent operates pursuant to radial highway common 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 Minimum Rate Tariff No. 7, irrespective of whether the documentation is prepared by respondent or by the subhauler who performed the transportation.

4. Respondent has not properly completed and executed hourly service freight bills as required by paragraph (c) of Item No. 93.1 of Minimum Rate Tariff No. 7 in the instances set forth in Parts 1 through 7 and 14 through 21 of Exhibit 1.

The Commission concludes that:

1. Respondent violated Sections 3704, 3737, 4044 and 4077 of the Public Utilities Code.

2. Respondent's operating authority should be suspended, pursuant to Sections 3774 and 4112 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. 19-56950 and City Carrier Permit No. 19-56951 issued to La Mirada Trucking, Inc., 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.
2. Respondent shall cease and desist from violating the documentation provisions of the Commission's minimum rate tariffs.
3. The motion to dismiss 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 28th day of FEBRUARY, 1967.

President
William S. Brown

William S. Brown

Neil P. Morrison
Commissioners

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

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