

**ORIGINAL**Decision No. 72073.

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 C. S.  
PERCY TRUCKING CO.

Case No. 8468  
(Filed July 12, 1966)

Don Miller, for respondent.

Sergius M. Boikan 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 rates, operations and practices of C. S. Percy Trucking Co., a corporation.

Public hearing was held before Examiner Mooney at Los Angeles on December 14, 1966.

Respondent conducts operations as a dump truck carrier pursuant to radial highway common carrier and city carrier permits. Respondent has a terminal in Wilmington. It has six employees. It owns five dump trucks. Respondent's gross operating revenue for the year ending June 30, 1966 was \$679,148. It was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.

On March 1, 2 and 3, 1966, a representative of the Commission's field section visited respondent's place of business and checked its records for the period from November 1, 1965 to January 31, 1966. The representative testified that approximately 1,000 freight bills were issued during the review period; that none of the freight bills complied with applicable documentation

requirements; and that because of missing information, it was not possible to determine from said freight bills whether respondent assessed proper rates and charges for any of the transportation in issue.

The representative testified that he made true and correct photostatic copies of 20 of the hourly service freight bills issued during the review period and that they are all included in Exhibit 1 as Parts 1 through 20 thereof. The representative explained that Exhibit 2 sets forth the information required by the documentation rule in paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 which, in his opinion, is missing from the documents in Exhibit 1. The transportation covered by Exhibit 1 is subject to both the City Carriers' and Highway Carriers' Acts. There is no allegation in this proceeding that respondent charged less than minimum rates or falsified its documents.

None of the hourly service freight bills included in Parts 1 through 20 of Exhibit 1 include the information required to be shown thereon by the following subparagraphs of paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7: (11) type of loading at origin; (13) time and location driver reported to work; (14) running time of last trip; (15) unloading time of last trip; (21) signature of consignor. In addition, certain of the documents do not include other information required by paragraph (c). Although time information is shown on the documents, it is not shown in the manner required by paragraph (c).

Respondent's dispatcher testified that he is also the dispatcher for Percy-Fairman and that his entire salary is paid by the latter company. He stated that Mrs. Percy is the owner

and president of C. S. Percy Trucking Co. The witness explained that Percy-Fairman was owned by Mr. Percy as a sole proprietorship at the time of his death and that said company is now held by a bank as trustee for Mrs. Percy. He testified that with the exception of Part 7, all of the transportation covered by Exhibit 1 was performed by Percy-Fairman as subhauler for respondent; and that the transportation covered by Part 7 was performed by an independent subhauler.

The witness for respondent testified that respondent requested a temporary suspension of its operating authorities on December 3, 1966 and that at this time it is not certain whether respondent will again commence active operations. He stated that prior to the suspension all drivers and subhaulers were contacted in person, by telephone and by letter (Exhibit 3) regarding compliance with the documentation requirements; that any documents not completed in accordance with said requirements were returned to the driver or subhauler for correction; and that all documents are now completed in accordance with the tariff requirements.

In closing, counsel for the Commission staff pointed out that respondent's operating authority was placed in suspension on November 12, 1966 for failing to maintain evidence of liability insurance on deposit with the Commission. Official notice is taken of the fact that respondent's operating authority is now in voluntary suspension at its request for a period of one year commencing November 12, 1966.

With respect to the question of whether respondent is responsible for errors or omissions in the hourly service freight bill 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 who 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 relevant or material to this case.

The Commission finds that:

1. Respondent operated prior to November 12, 1966 pursuant to radial highway common and city carrier permits.
2. The operating authority referred to in Finding 1 was placed in suspension on November 12, 1966 for failure by respondent to maintain evidence of liability insurance on deposit with the Commission. Said suspension was extended at the request of respondent for a period of one year from said date.
3. Respondent was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.
4. 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.
5. Respondent has not properly completed and executed hourly service freight bills as required by paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 in the instances set forth in Exhibit 1.

The Commission concludes that:

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

2. When and if respondent's operating authority, which is currently under voluntary suspension, is reinstated, said operating authority should, on the date of reinstatement, 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.

In the event respondent's operating authority is reinstated, 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. When and if Radial Highway Common Carrier Permit No. 19-56720 and City Carrier Permit No. 19-56721 issued to C. S. Percy Trucking Co., a corporation, which are under voluntary suspension, are reinstated, said permits are hereby suspended for a period of one year from the date of reinstatement; 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

C. 8468 ds

from the date of reinstatement of respondent's operating authority, 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 28<sup>th</sup> day of FEBRUARY, 1967.

William G. Bennett  
President

William S. Quinn  
Paul P. Morisset  
Commissioners

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

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