

ORIGINAL

Decision No. 72096

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the rates, operations, and)
practices of J & H COMPANY, a corpo-)
ration.)

Case No. 8469
Filed July 12, 1966

Phil Jacobson, for respondent.
David 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 rates, operations and practices of J & H Company, a corporation.

Public hearing was held before Examiner Mooney at Los Angeles on September 22, 1966.

Respondent conducts operations as a dump truck carrier pursuant to radial highway common carrier and city carrier permits. Respondent has a terminal in Ventura and a subterminal in Sun Valley. It employs a general manager, an office manager and three dispatchers. It owns 11 sets of bottom dump trailers and leases tractors. Respondent's gross operating revenue for the year 1965 was \$1,222,787.81. It was served with Minimum Rate Tariffs Nos. 7 and 17, together with all supplements and additions to each.

On various days during February, March and May 1966, a representative of the Commission's field section visited respondent's place of business and checked its records for December 1965. The representative testified that 746 shipments were handled by

respondent during the review period; that 142 were rated under hourly rates in Minimum Rate Tariff No. 7; that none of the documentation for the hourly rated shipment included all of the information required to be shown thereon by the applicable documentation rule in Tariff No. 7; that because of the missing information, it is not possible to determine whether proper rates were charged for the hourly shipments; that the balance of the shipments handled during the review period were rated under zone rates; and that there were no documentation errors in connection with the zone shipments. The witness 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. He explained that Exhibit 2 sets forth the information required by the documentation rule which, in his opinion, is missing from the documents in Exhibit 1. All of the transportation covered by Exhibit 1 was performed by subhaulers, and the subhaulers prepared the 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 Item 93.1 of Minimum Rate Tariff No. 7: (1) type of loading; (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). The documents in Exhibit 1 cover transportation subject to both the highway and city carriers' acts.

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 was performed. 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.

Respondent's counsel asserted that respondent now is using a new freight bill form that includes spaces for entering all of the information required by paragraph (c) of Item 93.1. His motion to dismiss the investigation of his client was opposed by the staff.

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, together with all supplements and additions thereto.
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 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. 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. 56-1960 and City Carrier Permit No. 56-1961 issued to J & H Company, 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

