

ORIGINALDecision No. 72098

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the rates,
operations, and practices of TRI-
COUNTY TRUCK COMPANY, a
corporation.

Case No. 8511
(Filed August 23, 1966)

Louis A. Marietta and Lawrence L. Dinneen, for
respondent.

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

O P I N I O N

On August 23, 1966, the Commission instituted an investigation into the operations, rates and practices of Tri-County Truck Company, a corporation. Public hearing was held before Examiner Mooney in Los Angeles on October 25, 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. It owns one tractor and has five employees. All transportation is performed by subhaulers who prepare the shipping documents. Respondent's gross operating revenue for the year 1965 was \$836,875.30. It was served with Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each.

On various days during February, March and June 1966, a representative of the Commission's field section visited respondent's place of business and checked its records for the period from October 16, 1965 to December 31, 1965. The representative testified that in excess of 2,500 shipping documents

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were issued during the review period; that none of the documents include all of the information required to be shown thereon by the applicable documentation rules in Tariffs Nos. 7 and 17; and that because of the missing information, it is not possible to determine from the documentation whether respondent assessed proper rates and charges for any of the transportation in issue.

The representative testified that he made true and correct copies of 20 of the shipping documents issued during the review period and that they are all included in Exhibit 1 as Parts 1 through 20 thereof. He pointed out that the commodity transported was not shown on any of the documents. He testified that the president of respondent informed him that Parts 1 through 9 and 16 through 20 covered the transportation of rock and that Parts 10 through 15 covered the transportation of asphaltic concrete. The witness stated that the transportation in Parts 1 through 15 was subject to the hourly rates in Tariff No. 7 and that the transportation in Parts 16 through 20 was subject to zone rates in Tariff No. 17. He explained that Exhibit 2 sets forth the information required by the documentation rules which, in his opinion, is missing from the documents in Exhibit 1. All transportation covered by Exhibit 1 was subject to the Highway Carriers' Act. The staff does not contend in this proceeding that respondent charged less than minimum rates or falsified its documents.

None of the documents in Parts 1 through 15 of Exhibit 1 include the information required to be shown on the hourly service freight bill by the following subparagraphs of paragraph (c) of Item 93.1 of Tariff No. 7: (11) type of loading; (12) commodity description; (14) running time of last trip; (15) unloading time of last trip; (21) signature of consignor; (23) signature of

consignee. In addition, certain of the documents in Parts 1 through 15 do not include other information required by paragraph (c).

None of the documents in Parts 16 through 20 of Exhibit 1 include the commodity description required to be shown on the shipping document for zone shipments by subparagraph (3) of paragraph (a) of Item 480 of Tariff No. 17. Also, a code number is used to designate the origin and production area which are required to be shown on said documents by subparagraph (3). In addition, the name of the consignee required by subparagraph (2) is not shown on the documents in Parts 17 through 20.

The president of respondent testified that respondent is an overlying carrier in the Ventura - Oxnard area. He stated that the subhauler who actually performed the transportation should be held responsible for any deficiencies in the documentation. He asserted that the subhauler is the one who is actually on the job and that respondent must depend on the subhauler for information regarding the job. The witness testified that although respondent has furnished the subhaulers with instruction sheets explaining how the documentation is to be prepared, some of the subhaulers continue to make out the documents improperly.

Respondent's president testified as follows regarding the hourly rated shipments in Parts 1 through 15 of Exhibit 1: Prior to the staff investigation, respondent was unable to obtain new forms which include spaces for recording all of the information required by the revised documentation rule for hourly rated shipments, which became effective October 16, 1965; the new forms were made available by the California Dump Truck Owners Association in early 1966; respondent now has a supply of the new forms (Exhibit 7) and has been furnishing them to its subhaulers who have been using them for some time.

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The president testified as follows regarding the zone rated shipments in Parts 16 through 20 of Exhibit 1: The five parts cover transportation performed for Southern Pacific Milling Company (SPM) which is respondent's major customer; the subhauler performing the transportation prepares a shipping document as shown in Exhibit 1 for each shipment; in addition, SPM issues a private weighmaster's certificate of weight and measure for each load; Exhibit 5 is a sample copy of the certificate; the rate and charge required by subparagraph (7) of paragraph (a) of Item 480 of Tariff No. 17 are not shown on the certificate, and the origin and destination required by subparagraph (3) are shown by code number; all other information required by paragraph (a) is shown on the certificate; three copies of the certificate are furnished to the subhauler; the subhauler gives one copy to the consignee, returns a copy signed by the consignee to SPM and turns the third copy in to respondent; SPM uses data processing extensively; at least once a week SPM prepares a tabulation sheet or invoice, referred to as a "tab run", which lists all transportation performed for it by respondent during the period covered; Exhibits 4 and 6 are sample copies of "tab runs"; the name of the consignee, the origin and production area and the destination required by subparagraphs (2), (3) and (4), respectively, of paragraph (a) of Item 480 are shown on the "tab run" by code number; the "tab run" includes all other information required by paragraph (a); a copy of the "tab run" is furnished to respondent; respondent adopts the "tab run" as his own document; after respondent has checked the private weighmaster's certificates against the listings shown on the "tab run", it destroys its copies of the certificates; the only documents

retained in respondent's files are the "tab runs" and the shipping documents prepared by the subhaulers. The witness urged that we consider the "tab run" as satisfying the documentation requirements in paragraph (a) for zone rated shipments.

Discussion

The record clearly establishes that the hourly service freight bills in Parts 1 through 15 of Exhibit 1 have not been completed in accordance with the requirements of paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7, and the shipping documents for zone shipments in Parts 16 through 20 of said exhibit have not been completed in accordance with the requirements of paragraph (a) of Item 480 of Minimum Rate Tariff No. 17. All of the information required by said tariff items has not been shown on the documents.

Likewise, the "tab run" in Exhibit 6 which includes the transportation covered by Parts 16 through 20 of Exhibit 1 does not comply with paragraph (a) of Item 480. While it is recognized that code designations are extensively used in industry today in connection with data processing, subparagraphs (2), (3) and (4) of paragraph (a) specifically require that name of the consignee, the precise location of the origin and production area and the precise location of the destination be shown on the face of the shipping document. The purpose of the tariff rule is to assure that all information necessary to rate the transportation is clearly shown on the shipping document and thereby obviate the necessity of looking beyond the document for any essential information. The code designations used by respondent for the consignee, the origin and production area and the destination are not explained on the "tab runs". It is necessary to refer elsewhere to determine the consignee, the origin and production

area and the destination 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.

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 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 in this case.

Findings and Conclusions

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 paragraph (c) of Item 93.1 of Minimum Rate Tariff No. 7 and 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, the shipper or anyone else.

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4. All information required by the tariff rules referred to in Finding 3 must be shown on the shipping documents. Code designations not explained on the documents are not a satisfactory substitute for the required information.

5. Respondent has not properly completed and executed hourly service freight bills and shipping documents for zone shipments as required by the tariff rules referred to in Finding 3 in the instances set forth in Exhibit 1.

6. The "tab runs" in Exhibits 4 and 6 and the private weighmaster's certificate of weight and measure in Exhibit 5 do not comply with the documentation rules referred to in Finding 3.

The Commission concludes that:

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

2. 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. 56-2227 issued to Tri-County Truck Company, a corporation, is 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 28th day of FEBRUARY, 1967.

President
William G. Bennett

William Lyons, Jr.

Paul P. Morrison
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.