

Decision No. 72204

ORIGINAL

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 LINCOLN)
A. RICHMOND, dba LINK RICHMOND &)
SONS. }

Case No. 8467
(Filed July 12, 1966)

Phil Jacobson, 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 operations, rates and practices of Lincoln A. Richmond, dba Link Richmond & Sons.

A public hearing was held before Examiner Mooney on December 13, 1966, at Los Angeles.

Respondent conducts operations pursuant to radial highway common carrier, highway contract carrier and city carrier permits and a cement carrier certificate. The investigation herein is limited to respondent's dump truck operations under its permits.

Respondent has a terminal in Baldwin Park, California. He owns and operates four tractors and bottom dump trailers and 16 trucks and transfer trailers. He has 24 employees. His total gross operating revenue for the year ending June 30, 1966 was \$1,655,659. Copies of Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all supplements and additions to each, were served upon respondent.

During March 1966, a representative of the Commission's Field Section visited respondent's place of business and checked his records for the period from January 1, 1966 to February 28, 1966.

The representative testified that approximately 2,500 shipping documents covering dump truck transportation were issued during the review period; that none of said documents included all of the information required to be shown thereon by the applicable documentation rules; and that because of the missing information, it is not possible to determine whether respondent assessed proper rates and charges for any of the transportation in issue. He stated that he made true and correct copies of 20 of the documents issued during the review period and that they are all included in Exhibit 1 as Parts 1 through 20 thereof. The witness testified that he was informed by respondent that 90 percent of respondent's dump truck transportation is performed for either Consolidated Rock Products or Owl Rock Products. He stated that said shippers each prepare delivery receipts; that the name of the consignee, the precise point of destination and the description of the commodity transported are shown on the delivery receipt; that two copies are furnished to the driver; that the driver gives one copy to the consignee and returns the other copy to respondent's office; that respondent prepares shipping documents in manifest form from the information on the delivery tickets; that the delivery tickets are returned with the copy of the shipping document sent to the shipper; and that the only document retained in respondent's file is the shipping document. He pointed out that the documents in Parts 1 through 10 relate to transportation performed for Consolidated Rock Products Co. and that the documents in Parts 11 through 20 relate to transportation performed for Owl Rock Products Co. The witness stated that both respondent's equipment and subhaulers were used to perform the transportation covered by Exhibit 1 and that all of said transportation was subject to the Highway Carriers' Act.

The representative testified that he has listed in Exhibit 2 the specific information required to be shown on the shipping document by paragraph (a) of Item 480 of Minimum Rate Tariff No. 17 which, in his opinion, is missing from the documents in Exhibit 1. There are no allegations in this proceeding that respondent charges less than minimum rates or falsified his documents.

None of the documents in Exhibit 1 include the information required to be shown on the shipping document by the following subparagraphs of paragraph (a) of Item 480: (3) point of origin; (4) point of destination; (5) description of shipment. In addition, the name of the consignee required by subparagraph (2) and the production area also required by subparagraph (3) are not shown on the documents in Parts 1 through 10.

Respondent's counsel pointed out that the point of origin required by subparagraph (3) is shown on all of the shipping documents in Exhibit 1 by code number; that although the point of destination required by subparagraph (4) is not shown on the documents in Parts 1 through 10, the delivery zone is shown, and this is all that is necessary to determine the rate and charge; that the point of destination is designated on the documents in Parts 11 through 20 by a street address or by a street intersection or by the name of a city; that although the commodity description required by subparagraph (5) is not shown on the documents in Parts 1 through 10, it is shown on the documents in Parts 11 through 20 by code designation; and that the production area required by subparagraph (3) is also indicated on Parts 1 through 10 by the same code number that designates the origin. He also referred to the aforementioned testimony by the staff representative that the name of the consignee, point of destination and commodity description required by subparagraphs (2), (4) and (5), respectively, are shown on the delivery receipt prepared by the shipper.

Discussion

The record establishes that the shipping documents in Exhibit 1 have not been completed in accordance with the requirements of paragraph (a) of Item 480 of Minimum Rate Tariff No. 17. All of the required information has not been shown on the documents.

While it is recognized that code designations are extensively used in industry today in connection with data processing, subparagraphs (3) and (5) require that the precise location of the origin of the shipment, the production area and the commodity description 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 are not explained on the documents herein. It is necessary to refer elsewhere to determine the location, production area and commodity they represent. In the absence of specific authority from the Commission, code designations which are not explained on the documents may not be used as a substitute for the required information.

Likewise, subparagraph (4) requires that the complete address of the destination be shown on the shipping document. It is not sufficient to show merely a street address or an intersection or the name of a city. The destination must be described with sufficient certainty so it is obvious to anyone where it is located.

Assuming, as respondent's counsel contends, all or most of the information missing from the shipping documents is shown on the delivery receipts prepared by the shipper, the fact remains that the shipping documents are deficient. The delivery receipt is the shipper's and not respondent's document. It is prepared by the

shipper for its own records. No copy of the delivery receipt is retained by respondent. It is not a part of the shipping document. It evidences the fact that the consignee has received the shipment.

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 or the subhauler 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.

Findings and Conclusions

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. The delivery receipts were prepared by the shippers for their own records. Respondent is not furnished a copy of said documents for his files. They are not a part of respondent's shipping documents.

6. 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 permit carrier operating authority should be suspended, pursuant to Sections 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. 19-55769 and Highway Contract Carrier Permit No. 30-3075 issued to Lincoln A. Richmond, doing business as Link Richmond & Sons, 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.

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 MARCH, 1967.

[Signature]
President

[Signature]

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Commissioners