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ORIGINAL

Decision No. 72205

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the rates, operations
and practices of KELLY TRUCKING
COMPANY.

Case No. 8544

Burch, Gregory and Platt, by John B. Gregory, for
respondent.

John C. Gilman and Richard Carlin, for
Commission staff.

O P I N I O N

By its order dated October 11, 1966, the Commission
instituted an investigation into the rates, operations, and practices
of Kelly Trucking Company, hereinafter referred to as respondent.

Public hearing was held before Examiner Porter at
Los Angeles, February 7, 1967, and the matter was submitted.

Respondent conducts operations as a dump truck carrier
pursuant to radial highway common carrier and city carrier permits.
It owns and operates two pickups, three tractors, fifteen semi-trailers
and fifteen trailers. It employs three drivers, two foremen and
one office clerk. Respondent has a terminal in La Mesa, California.
Respondent's gross operating revenue for the period October, 1965
through September, 1966 was \$784,585. Respondent was served with
Minimum Rate Tariffs Nos. 7 and 17 and Directory 1, together with all
supplements and additions thereto.

A representative of the Commission's Field Section checked all of respondent's records for the month of December, 1965; in all, 200 freight bills were reviewed and 26 selected as representative. The documentation for these 26 shipments were copied and introduced in evidence as Exhibit No. 1.

The Commission staff introduced evidence that from the freight bills in Exhibit No. 1, it was impossible to determine the applicable minimum rates as shown by Exhibit No. 2 introduced in evidence by the staff. The respondent failed to include various information factors on shipping documents as required by Item 93.1(c), Minimum Rate Tariff No. 7. In the main these were: failure to include capacity in cubic yards, name of underlying carrier if any, commodity transported, time and location driver reported to work and overall time.

A representative for the respondent testified that the tariff regulations regarding documentation are complex and that it attempts through meeting with drivers and subhaulers to educate them as to the necessity to include the required information on the documents so that they may be properly rated.

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 thereto.

3. Respondent has not properly completed and executed shipping documents as required by Minimum Rate Tariff No. 7 in the instances set forth in Exhibit No. 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.

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. 37-4954 and City Carrier Permit No. 37-5163 issued to Kelly Trucking Company 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 date of completion of such service.

Dated at San Francisco, California, this 27th
day of MARCH, 1967.

[Signature]
President
[Signature]
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Commissioners