

ORIGINAL

Decision No. 72276

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the rates,
operations, and practices of
GORDON E. HUYCK, an individual.

Case No. 8485

Gordon E. Huyck, in propria persona.
John Charles Gilman, David R.
Larrouy, and Richard Carlin, for
the Commission staff.

O P I N I O N

By order dated July 26, 1966 the Commission instituted an investigation into the rates, operations, and practices of Gordon E. Huyck. Public hearing was held at Los Angeles before Examiner DeWolf on January 26, 1967 and February 8, 1967, and was submitted on the latter date.

Respondent presently conducts operations pursuant to Radial Highway Common Carrier Permit No. 19-42565 and City Carrier Permit No. 19-40566. It was stipulated that respondent had been served with Minimum Rate Tariff No. 7 and supplements thereto. The order instituting investigation alleges that respondent may have violated Sections 3737, 3704, 4044, and 4077 of the Public Utilities Code by failing to complete, execute, and retain shipping documents in the form and manner prescribed by Item 93.1 of MRT 7.

Respondent owns three pieces of equipment, has nine employees, and has his terminal in Irwindale. His gross revenue

from operations for the calendar year 1965 was \$105,682.90.

It was stipulated that neither undercharges nor falsification of documents were issues in this proceeding.

The staff presented one witness, a Transportation Representative, who testified that he inspected respondent's records for the period November 1, 1965 to January 31, 1966. Twenty-one freight bills were copied and received in evidence as Exhibit No. 1. A chart showing statistical information regarding the operations of respondent and itemizing those specific requirements of Item 93.1 of MRT 7 omitted from the freight bills in Exhibit No. 1 was received in evidence as Exhibit No. 2. In the witness's opinion each of the twenty-one freight bills failed to comply with the documentary requirements specified in Item 93.1 of MRT 7 in that certain required information was omitted therefrom. It would serve no useful purpose to set forth all the omissions as they are numerous and there is no dispute as to their occurrence. Selected omissions include: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and over-all time. The omitted information is necessary to determine whether the rate assessed for the transportation is correct.

Respondent testified that he has numerous subhaulers who are handling work for him as underlying carriers and that

respondent is doing all he can to get them to make out the bills correctly and that he will continue to make every effort to have this done. Respondent further testified that he wants to comply with the law but that it is difficult to get the truck drivers to furnish the requisite information as he has not been able to apprise all of them of the requirements of the law concerning Item No. 93.1 of MRT 7, and the necessity for filling out the forms correctly.

Findings

1. Respondent operates pursuant to city carrier and radial highway common carrier permits.
2. Respondent was served with MRT 7 and supplements.
3. Respondent omitted to insert part of the information required by Item 93.1 of MRT 7 on his freight bills. The information omitted includes, but is not limited to: type of loading at origin; time and location driver reported to work; starting-ending-elapsed running time of last trip; starting-ending-elapsed unloading time of last trip; and over-all time, and respondent failed to properly complete and execute the freight bills as required by Item 93.1 of MRT 7 in the instances set forth in Exhibit No. 1.

Conclusion

The Commission concludes that respondent violated Sections 3737, 3704, 4044 and 4077 of the Public Utilities Code and that 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. 19-48565 and City Carrier Permit No. 19-48566 issued to Gordon E. Huyck 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 11th
day of APRIL, 1967.

[Signature] President
[Signature]
[Signature]
[Signature] Commissioners
[Signature] Commissioners