

**ORIGINAL**

Decision No. 74218

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
own motion into the operations, )  
rates, charges, and practices of )  
TRANS OCEAN ENTERPRISES, a )  
corporation. )

Case No. 8769  
(Filed February 6, 1968)

W. James Knowles, for respondent.  
Donald M. Grant, Counsel, and E. H. Hjelt,  
for the Commission staff.

O P I N I O N

By its order dated February 6, 1968, the Commission instituted an investigation into the operations, rates, charges and practices of Trans Ocean Enterprises for the purposes of determining whether or not respondent violated Sections 3705, 4045 and 5225 of the Public Utilities Code. A copy of said order was served personally on an officer of respondent corporation, DeWayne F. Titus, President, on Tuesday, February 13, 1968.

A public hearing was held before Examiner O'Leary at San Francisco on March 8, 1968, on which date the matter was submitted.

Respondent admits having denied authorized employees of the Commission access to its lands, buildings and equipment situated thereon and to accounts, records and memoranda.

Respondent contends that Sections 3705, 4045 and 5225 of the Public Utilities Code, both as written and as applied are un-enforceable in that said sections deny the protection guaranteed by the Constitution of the United States, Fourth Amendment, and the California Constitution, Article 1.

The Commission takes official notice that respondent applied to the Commission pursuant to the Public Utilities Code for and received:

- (a) Permit No. 1-8536 to operate as a radial highway common carrier subject to the Code provisions;
- (b) Permit No. 1-10468 to operate as a city carrier subject to the Code provisions; and
- (c) Permit No. 1-10317 to operate as a household goods carrier.

The Public Utilities Code did, at the time respondent made the above application, and does provide that the Commission or its agents shall have access to the lands and physical equipment of respondent and to the business accounts and papers of respondent (Sections 3705, 4045, 5225) to enforce the regulations of carriers entrusted and directed by the State to the Public Utilities Commission.

The minimum rate tariffs issued by the Commission and served upon respondent, with its permits described above, required that records be kept by it as a radial highway common carrier, as a city carrier, and as a household goods carrier. Respondent, by applying for and receiving the above permits, became a carrier subject to the laws of this State and thereby consented to the application to it of the provisions of Sections 3705, 4045 and 5225 and the orders and regulations of the Public Utilities Commission. Consequently, the authorities relied upon by respondent to excuse its conduct are not applicable.

After consideration, the Commission finds that:

1. Respondent operates pursuant to radial highway common carrier, city carrier, and household goods carrier permits issued by the Public Utilities Commission.
2. Respondent applied for these permits pursuant to the Public Utilities Code of the State of California and the rules and regulations of the Commission.
3. Respondent, by operating under said permits, submitted itself to regulations by this Commission, which include the requirement that records be kept and that the Commission or its agents be permitted to inspect them and its carrier facilities.
4. An authorized employee of the Commission delegated to perform an inspection of respondent has been denied access to its lands, buildings, equipment, accounts, records and memoranda.
5. A copy of the Commission's order dated February 6, 1968, which instituted the investigation into the operations, rates, charges and practices of Trans Ocean Enterprises to ascertain if respondent violated either Sections 3705, 4045 or 5225 of the Public Utilities Code, was served personally on an officer of respondent on February 13, 1968.

Based upon the foregoing findings of fact, the Commission concludes that respondent has violated Sections 3705, 4045 and 5225 of the Public Utilities Code and pursuant to Sections 3774, 4112 and 5285 of the Public Utilities Code should pay a fine in the amount of \$500.00 and its permits should be suspended until such time as the Commission or its authorized employees are allowed to inspect its records and carrier facilities.

O R D E R


IT IS ORDERED that:

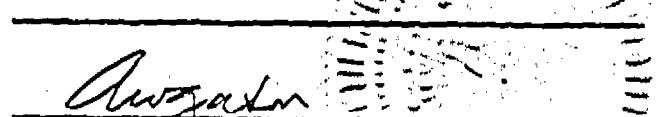
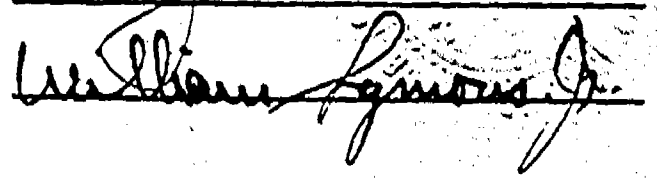
1. Respondent shall pay a fine of \$500.00 to this Commission on or before the fortieth day after the effective date of this order.

2. Radial Highway Common Carrier Permit No. 1-8536, City Carrier Permit No. 1-10468 and Household Goods Carrier Permit No. 1-10317 issued to respondent are hereby suspended until further order of the Commission.

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 completion of such service.

Dated at San Francisco, California, this 7<sup>th</sup> day of JUNE, 1968.

  
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President

  
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Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.