

ORIGINAL

Decision No. 77042

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations
and practices of DONALD R. WALKER,
an individual, doing business as
DICE TRUCKING.

Case No. 8981
(Filed October 15, 1969)

Emanuel Gyler, for respondent.
Gary Hall, Counsel, and J. B. Hannigan,
for the Commission staff.

O P I N I O N

This proceeding is an investigation into the operations and practices of Donald R. Walker, doing business as Dice Trucking.

A public hearing was held before Examiner Rogers in Los Angeles on March 3, 1970 on which date the matter was submitted. A Copy of the Order Instituting Investigation and of the Notice of Hearing were served on respondent in accordance with the Commission's rules of procedure.

Respondent operates pursuant to a radial highway common carrier permit (Permit No. 36-4164) and highway contract carrier permit (Permit No. 36-3910). Each authorizes transportation within a radius of 150 miles from San Bernardino of general commodities, excluding: livestock, household goods carrier operations, petroleum products transported in tank trucks and tank trailers, property transported in dump truck equipment, fresh fruits and vegetables,

cement, transportation of motor vehicles, hay fodder and straw in machine pressed bales, grain, rice and related products in bulk and transportation subject to yearly, monthly and weekly vehicle unit rates.

The Order of Investigation included allegations that respondent may be operating as a highway common carrier between fixed termini or on regular routes between certain listed cities within said area without having secured a certificate of public convenience and necessity as required by Section 1063 of the Public Utilities Code, and was to determine whether or not, pursuant to Section 1071 of the Public Utilities Code, respondent should be ordered to cease from operating as a highway common carrier until he should have obtained a highway common carrier certificate.^{1/}

The respondent stipulated that Exhibits Nos. 1 through 7 herein be received in evidence and that such exhibits show that respondent was, during the periods covered by said exhibits, operating as a highway common carrier between the points specified in Exhibits Nos. 6 and 7 herein.^{2/}

The respondent further stipulated that the Commission may issue a cease and desist order, effective immediately, prohibiting respondent from operating as a highway common carrier between the points specified in Exhibits Nos. 6 and 7 herein.

^{1/} The Order of Investigation also was to determine whether or not respondent's operating authority should be cancelled, revoked or suspended. Staff counsel withdrew this phase and stated that no penalty other than the herein cease and desist order was requested.

^{2/} The points listed are the points specified in the cease and desist order herein.

Findings of Fact

The Commission finds that:

1. Donald R. Walker, respondent, is an individual doing business as Dice Trucking, and has had issued to him and in effect radial highway common carrier and highway contract carrier permits, both authorizing respondent to transport general commodities with exceptions, between points within 150 miles of San Bernardino.

2. Respondent is and was during the periods set forth in Exhibits Nos. 6 and 7 transporting the general commodities specified in his radial highway common carrier permit between:

1. Los Angeles and Beaumont
2. Los Angeles and Colton
3. Los Angeles and Hemet
4. Los Angeles and Riverside
5. Los Angeles and San Bernardino
6. Los Angeles and San Diego.

Such operations are and were of such frequency that they constitute highway common carriage, and respondent is, and at all times specified in Exhibits Nos. 6 and 7, was operating as a highway common carrier between said points.

3. Respondent has no authority from this Commission to render service as a highway common carrier between said points specified in Finding No. 2, or between any points in the State of California.

4. Respondent agreed that a Cease and Desist Order be issued forthwith, effective immediately, prohibiting highway common carriage operations by respondent between the listed termini.

The Commission concludes that respondent is operating as a highway common carrier between points specified in Finding No. 2 herein; that he should be ordered to cease and desist such operations until such time as he has secured a certificate of public convenience and necessity as a highway common carrier, and the Cease and Desist Order should be made effective immediately.

O R D E R

IT IS ORDERED that:

Respondent, Donald R. Walker, forthwith cease and desist operations as a highway common carrier for the transportation of any commodities between the following points:

1. Los Angeles and Beaumont
2. Los Angeles and Colton
3. Los Angeles and Hemet
4. Los Angeles and Riverside
5. Los Angeles and San Bernardino
6. Los Angeles and San Diego.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 7th day of APRIL, 1970.

William Sproull
President

[Signature]

[Signature]
Commissioners