

ORIGINAL

Decision No. 77222

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
 of C. E. FORTIER and C. J. FORTIER,  
 a copartnership doing business as  
 FRESNO-GENERAL GRANT-CEDAR GROVE  
 FREIGHT LINES, to sell and transfer,  
 and E. W. SIMMONS, an individual,  
 to purchase certain operating  
 rights and equipment.

Application No. 39280

E. W. Simmons, in propria persona,  
 applicant.

Walter H. Eastham, for the Commission  
 staff.

O P I N I O N

By Decision No. 76759 dated February 10, 1970, the  
 operating authority of E. W. Simmons, doing business as Fresno-  
 General Grant-Cedar Grove Freight Lines, was revoked for failure to:

1. File quarterly reports and pay fees due for  
 the fourth quarter 1968, and first, second  
 and third quarters 1969, in accordance with  
 Section 5003.1 of the Public Utilities Code.
2. Maintain on file a surety bond in the amount  
 of \$2,000 in compliance with General Order  
 No. 84-F or in lieu thereof publish a tariff  
 provision that C.O.D. shipments will not be  
 accepted.

Said order provided that the revocation was to become  
 effective thirty days after the date of signing unless before that  
 time applicant filed a written request for public hearing, in which  
 event the certificate was to be suspended pending further order of  
 the Commission. On March 10, 1970, applicant filed a written  
 request for public hearing.

Public hearing was held before Examiner Daly on April 9, 1970, at Fresno.

The record indicates and the Commission finds that:

1. Applicant has since filed quarterly reports and has paid fees for the fourth quarter in 1968, the first, second, third, and fourth quarters in 1969 and is presently in the process of preparing and filing the first quarterly report for 1970.

2. Applicant has heretofore notified his tariff agent to make the necessary tariff amendment indicating applicant's intention not to accept C.O.D. shipments, but because of a misunderstanding with his tariff agent the amendment has not been filed. The misunderstanding has also resulted in the cancellation of applicant's tariff by his agent.

3. Applicant requests a reasonable period of time to file a tariff in compliance with the Commission's rules and regulations.

The Commission therefore concludes that the operating authority of applicant should remain in suspension so that applicant may make an appropriate tariff filing. If the filing is not made within sixty days of the date hercof said operating authority shall be revoked.

O R D E R

IT IS ORDERED that:

1. The operating authority acquired by E. W. Simmons by Decision No. 55554, dated September 10, 1957, as amended by Decision No. 74082, dated May 7, 1968 and Decision No. 74541, dated August 13, 1968, in Application No. 39280 is hereby revoked, unless before the effective date of this order applicant files with this Commission a tariff in compliance with General Orders Nos. 80-A and 84-F.

2. In the event applicant files a tariff in compliance with ordering paragraph 1 hereof, the suspension imposed upon the operating authority herein considered is hereby set aside.

The effective date of this order shall be sixty days after the date hereof.

San Francisco

Dated at \_\_\_\_\_, California, this 19th  
day of MAY, 1970.

William J. ...  
President

Augustin

J. P. ...

Thomas ...

Vernon L. Stenger  
Commissioners