

Decision No. 79829

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of OSCAR WISEMAN dba WISEMAN'S  
MOVING AND DELIVERY SERVICE,  
San Francisco, for reinstatement  
of radial highway common carrier  
and highway contract carrier  
permits.

Application No. 53042  
(Filed December 3, 1971)

Joseph B. Williams, Attorney at Law, for Oscar  
Wiseman, applicant.  
T. H. Peceimer, for the Commission staff.

O P I N I O N

Applicant's radial highway common carrier and highway contract carrier permits were revoked on June 11, 1971. He has applied herein to have them reinstated.

A public hearing was held before Examiner Fraser in San Francisco on January 17, 1972.

The record reveals that Public Utilities Code Section 3737 was amended effective November 23, 1970, to require carriers to purchase needed tariffs and supplements thereto. All carriers were notified by letter dated October 23, 1970, that the payment for their 1971 tariffs should be received by the Commission no later than November 23, 1970. An invoice was enclosed with the October 23rd letter which listed all tariffs and the amount due on each one. The letter also advised that a failure to keep tariffs up to date would result in the suspension or revocation of permits. On February 18, 1971, a "Notice Of Impending Suspension Of Permits" was mailed to all carriers who failed to respond to the first letter. On April 27, 1971, Commission Resolution No. 16712 was mailed to advise that operating rights would be suspended effective May 11, 1971, and revoked June 11, 1971, unless appropriate remittance was made for

tariffs or a request for amendment of the carrier's permits was received to eliminate the requirement to purchase tariffs not being used. This resolution was sent by certified mail and when not received was mailed again by First Class Mail. As remittances or responses were received pursuant to the notice, each carrier's name was eliminated from the latest list of non-responders.

Copies of all letters and the resolution were mailed to applicant's home, which was his address of record. The certified letter was never picked up by the applicant and was finally returned to the Commission staff on May 17, 1971, with the notation "No response - Notice left" - "Unclaimed". The other letters were never returned, and it was presumed that they were delivered. On June 11, 1971, the permits of 76 carriers who had not responded, including Oscar Wiseman, were revoked pursuant to Commission Resolution No. 16712. The staff representative advised that applicant should have contacted the Commission prior to the revocation of his permits. If he had, it is likely that the staff could have helped and no permits would have been revoked. The staff took no position as to reinstatement of the permits. Applicant must buy the tariffs and supplements he will need to determine the rates he is required to charge.

Applicant testified as follows: He does not recall receiving any letters or notices from the Commission. He was informed his permits were revoked when he telephoned the Commission office in San Francisco to request that certain forms be mailed which his bookkeeper advised he had not received. He was informed that his permits had been revoked and that he would have to apply for a new operating authority and pay a fee of \$500 for each permit issued. He was also advised during the conversation that revoked permits could not be reinstated by the Commission staff. This information discouraged him from further efforts to contact the staff.

Applicant testified that mail delivered to his neighborhood is frequently not received. He has missed checks and other important mail on several occasions and suspects that the letters from the Commission may have been removed from his mailbox. He has operated

under his permits for three years and has always satisfied all requirements. He would not deliberately fail to provide information and fees knowing that failure to conform would result in a suspension or revocation of his operating authority.

Findings

1. Applicant's radial highway common carrier and highway contract carrier permits were revoked effective June 11, 1971, after applicant failed to respond to several notices mailed by the Commission and did not comply with the requirements of amended Section 3737 of the Public Utilities Code.

2. Applicant operated under the permits for three years prior to revocation and satisfied all Commission requirements.

3. Mail delivered to applicant's neighborhood is frequently not received.

4. Applicant has not received all the notices referred to herein, which were mailed on the dates noted to each trucker in California operating under permits.

5. Applicant's permits should be reinstated after any payments or fees due have been paid to the Commission.

The Commission therefore concludes that the application should be granted under the conditions stated in the following ordering paragraph.

O R D E R

IT IS ORDERED that the Secretary of the Commission shall reinstate the radial highway common carrier and highway contract carrier permits heretofore issued to Oscar Wiseman and since revoked,

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providing all payments due the Commission for tariffs and supplements thereto have been paid and all obligations pending have been satisfied within sixty days after the effective date of this order; otherwise this order is vacated, and the permits shall stand revoked.

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

Dated at San Francisco, California, this 21st  
day of MARCH, 1972.

[Signature]  
Chairman  
[Signature]  
[Signature]  
Commissioners