

ORIGINAL

Decision No. 80193

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of ROBERT R. RUSSO dba EMPIRE
MOBILE HOME SALES, for reinstatement
of permit to operate as a
radial highway common carrier.

Application No. 53180
(Filed March 1, 1972)

Robert R. Russo, for himself, applicant.
William C. Bricca, Attorney at Law, and
Harold Lane, for the Commission staff.

O P I N I O N

Applicant's radial highway common carrier permit was revoked on December 6, 1971. He has applied herein to have it reinstated.

A public hearing was held before Examiner Fraser in San Francisco on April 4, 1972.

The record reveals that the Commission staff mails thousands of questionnaires each year to a group of randomly selected carriers to keep information current on traffic and transportation data. One of these forms was mailed to the applicant on June 15, 1971, which noted a \$25.00 fine would be levied and a possible suspension or revocation of operating authority if the form was not completed and returned by July 15, 1971. There was no response and a second form, which levied a \$25.00 fine, was mailed to the applicant on August 16, 1971. Applicant did not return the second form or even acknowledge that it was received; therefore, Commission Resolution No. 16796, dated October 27, 1971, was mailed to the applicant on October 27, 1971. This resolution suspended carrier's permit on November 5, 1971 and revoked said permit on December 6, 1971 unless on or before that date carrier submitted the information and paid the fine. An affidavit executed by an employee of the Commission's Sacramento office reveals that applicant telephoned the Sacramento office on November 1, 1971

and was advised of the requirements in the resolution and of the consequences of non-compliance. The information forms were never returned although applicant mailed a \$25.00 check to the Commission postmarked January 22, 1972, which was returned to the applicant on January 25, 1972, since his permit had already been revoked.

Applicant testified that he thought the first information form was due about December 6, 1971 and that it had been mailed about December 1, 1971. He recalled receiving a notice that \$25.00 was due and sending a check as payment therefor prior to December 15, 1971. He testified that his check was returned by the Commission with a notice that his permit had already been revoked. He testified that he inquired about the revoked permit and was advised he should apply for a new permit. He stated he cannot conveniently raise \$500 to file for a new permit so he petitioned herein for reinstatement of his old permit.

He further testified that he has a mobile home contractor's license and sells mobile homes; he also hauls them to new locations and performs the necessary work prior to occupancy. His principal business is hauling and he has operated under permitted authority since 1966.

Discussion

Applicant's offense consists of failing to fill out and submit a form within the allotted period. The omission was aggravated by a failure to promptly acknowledge three subsequent notices. The practice of neglecting to return forms with required information inevitably requires the agency concerned to assume the additional expense of mailing additional forms and notices. Sometimes, as in the present case, formal action is required. Applicant has continually disregarded Commission notices and requirements in this instance and has a prior record of failing to reply to Commission directives within the allotted time. If he is exonerated it will lessen the importance of observing the requirements and encourage others to ignore Commission directives.

Findings

1. On June 15, 1971 a Commission information request titled "Report of Distribution of Revenue by Minimum Rate Tariff and by Type of Rate Used for the Calendar Year, 1970" was mailed to the applicant to be properly filled out and returned.

2. Applicant did not respond within the time allowed and a second request, which levied a \$25.00 fine for delinquency, was mailed to the applicant on August 16, 1971.

3. No communication was received from the applicant and on October 27, 1971 a copy of Commission Resolution No. 16796 was mailed to him. This resolution suspended applicant's permit on November 5, 1971 and revoked it on December 6, 1971 unless on or before that date carrier complied with the information request and paid the fine.

4. Applicant telephoned the Sacramento office of the Commission on November 1, 1971 and was informed of the requirements of the resolution and that his permit would be revoked if he did not comply.

5. Applicant mailed a \$25.00 check to the Commission on January 22, 1972, which was returned on January 25, 1972, since his permit had already been revoked.

6. The information request form has still not been filed by the applicant.

7. Applicant failed to return the completed form to the Commission within the time allotted.

The Commission therefore concludes that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 53180 is denied.

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

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

J. P. Moran
Chairman
William J. Sydnor
Yusuf L. Shingor
Thomas Moran
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.