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Decision No. 85443

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ERVIN D. GRIGG and  
JAKE COBB, dba E. D. TRUCKING SERVICE,  
for reinstatement of radial highway  
common carrier and dump truck carrier  
permits, Santa Maria.  
File No. T-81,495.

Application No. 56013  
(Filed October 15, 1975)

Ervin D. Grigg, for himself, applicant.  
Michael R. Flaherty, for the Commission staff.

O P I N I O N

The radial highway common carrier and dump truck carrier permits issued to Ervin D. Grigg (Grigg) and Jake Cobb (Cobb), doing business as E. D. Trucking Service, have been revoked for failure to file a gross operating revenue report, pay the gross operating revenue fee, and uniform business license tax for the first quarter of 1975. By this application, Grigg requests that the two permits be reinstated.

A public hearing was held before Examiner Arthur M. Mooney in Santa Maria on December 10, 1975, on which date the matter was submitted.

Evidence in support of the reinstatement of the permits was presented by Grigg. The Commission staff did not oppose the sought reinstatement. However, the staff did present Exhibit 1 which sets forth the past history of applicants and the reason for the revocation of the permits.

Findings

1. Grigg and Cobb are equal partners in E. D. Trucking Service.
2. Applicants were issued a radial highway common carrier permit on May 19, 1965. The permit was amended on May 8, 1970. They also hold a dump truck carrier permit which was issued on May 8, 1970.
3. Cobb is the uncle of Grigg and became a partner in E. D. Trucking Service when it initially commenced operations as an accommodation to his nephew. The uncle invested \$1,500 in the business at that time, and Grigg has paid it back to him. The uncle has never taken any active part in the business and no longer has any interest whatsoever in it. He is now retired.
4. Applicants' operating authority has on several instances in the past been suspended for failure to comply with insurance requirements, and they have been fined for failing to file required reports.
5. Sections 4304, 4307, 5003.1, and 5007 of the Public Utilities Code require permit carriers to file quarterly gross operating revenue reports and to pay a gross operating revenue fee and uniform business license tax each quarter. The report, fee, and tax for the first quarter of 1975 were due on or before April 15, 1975. Applicants did not comply with these statutory requirements for the first quarter of 1975 within the required time.
6. By Commission letter dated June 19, 1975 addressed to applicants' place of business, they were placed on notice that the fee and tax referred to in Finding 5 were delinquent and that unless the amounts due and penalties applying in connection therewith were received by July 10, 1975 their operating authorities would be subject to suspension and/or revocation.

7. By Commission letter dated August 5, 1975 addressed to applicants' place of business, applicants were placed on notice that pursuant to Resolution No. 17615, a copy of which was enclosed, their permits would be suspended August 15, 1975 and would be revoked effective September 15, 1975 unless on or before such dates the applicable amounts due and penalties were paid.

8. The Commission's Santa Barbara District Office, by letter dated September 8, 1975 addressed to applicants' place of business, requested applicants to visit or phone this office regarding their operating authority which was scheduled for revocation on September 15, 1975.

9. Since applicants did not pay the fee, tax, and penalty in issue by September 15, 1975, their permits were revoked pursuant to the provisions of Resolution No. 17615.

10. It had been Grigg's intention to change E. D. Trucking Service from a partnership to a single proprietorship in his name alone after his uncle had severed his connection with the business; however, he did not understand the mechanics for accomplishing this, and for this reason, he did not make the change.

11. Applicants' have two tractors and two sets of bottom hopper trailers. Grigg does all of the maintenance on the equipment. His son now works for the business. The business owes \$5,000 on the equipment and a \$300 repair bill and has no other liabilities. Grigg has approximately \$700 in working capital and is owed an additional \$1,000. The trucking business is Grigg's main livelihood. Approximately 99 percent of applicants' business is subhauling for other carriers.

12. Grigg's wife apparently had forgotten to file the required report and make the payments in issue by the due date. The delinquency and suspension and revocation notices referred to above were received by Grigg's wife but were not brought to his attention until after the revocation of the permits became effective. There was an illness in his family at this time, and this was apparently the reason his wife had failed to give the notices to him. Upon becoming aware of what had happened, Grigg immediately made the necessary payment which totaled \$6.61 to the Commission on September 29, 1975. He also made the required payments for the second quarter of 1975 on this date and for the third quarter of 1975 on November 15, 1975.

13. Applicants have not operated subsequent to Grigg's becoming aware that the permits were revoked.

14. The permits in issue should be reinstated upon the filing of the necessary application to transfer the two permits from the partnership to Grigg as a sole proprietorship.

#### Conclusions

1. The application should be granted as provided in the order which follows.

2. Applicants should be directed to file reports and make payments required by the Public Utilities Code and by the Commission within the required time.

Applicants are placed on notice that any delinquency on their part in complying with the rules and regulations of the Public Utilities Code and the Commission, including those requiring the filing of quarterly gross revenue reports and the payment of quarterly gross revenue fees and uniform business license taxes, may result in Commission action leading to revocation of their permits.

O R D E R

IT IS ORDERED that:

1. The radial highway common carrier and dump truck carrier permits issued to Ervin D. Grigg and Jake Cobb, doing business as E. D. Trucking Service, and revoked by the Commission pursuant to Resolution No. 17615 dated August 5, 1975 are hereby reinstated as of the date the two permits are transferred to Ervin D. Grigg as a sole proprietorship.

2. Ervin D. Grigg shall file reports and pay fees and taxes required by the Public Utilities Code and the Commission within the time periods specified.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10<sup>th</sup>  
day of FEBRUARY, 1976.

William L. Sturgeon  
President  
Thomas L. Sturgeon  
Thomas L. Sturgeon  
Thomas L. Sturgeon  
Commissioners