

ORIGINAL

Decision No. 86177

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition)	
of Asbury Transportation Co.,)	
for approval of the suspension of)	Application No. 55762
a portion of its Highway Common)	(Filed June 20, 1975)
Carrier Operating Authority.)	

INTERIM OPINION

Asbury Transportation Co., a California corporation, (petitioner), is a highway common carrier engaged in the business of the transportation of petroleum products in bulk in tank equipment between all points on twelve routes in the State of California, including lateral departures therefrom within a radius of fifty statute miles. These routes together with the fifty mile lateral cover virtually the entire state. The certificated operating authority was originally granted to the petitioner by Decision 42623 dated March 15, 1949 in Application 29693, and amended by Decision 43049 dated June 28, 1949 in the same proceeding, and modified by Decision 84790 dated August 12, 1975 in Application 55762.

The petitioner alleges that its economic interests could best be served through approval by the Commission of the suspension of a portion of the aforementioned certificate to wit, the territory between the southernmost limits of San Francisco Bay and the United States-Mexico International Boundary. Petitioner intends to provide service in this area as a petroleum contract carrier, thus enabling it to charge rates above the level of the applicable minimum rates in order to offset rising costs.

This petition raises fundamental questions as to whether or not a carrier, having assumed an obligation to render service

to the public as a certificated carrier in a certain area should be authorized to suspend such service and in lieu thereof provide such service as a permitted carrier. Petitioner, upon being granted the rights herein under consideration, undertook to serve the public. If carriers are left free to choose when, and to what extent they will discharge their obligations, the public would have no assurance that the carriers would fulfill them, and unlawful discriminations between localities and between shippers might well result.

We will authorize the petitioner to suspend a portion of his highway common carrier certificate for a period of one year as prayed for, because there are a substantial number of certificated carriers who are ready and able to fill the public need in the area herein under consideration; however, prior to the expiration of the suspension period authorized herein, we will reopen the proceeding in Application 29693, and related proceedings, to determine whether or not the suspended portion of the certificate should be revoked on the premise that public convenience and necessity no longer requires the petitioner's services in the area in question. We have no intention of abandoning our duty to see that certificated carriers discharge their obligations to the public properly. The Commission concludes that the effective date of this order should be the date on which it is signed because there is no known opposition and no reason to delay granting the relief requested.

INTERIM ORDER

IT IS ORDERED that:

1. Concurrent with the tariff filings required by Ordering Paragraph 2 hereof, a portion of the operating authority as set forth in Appendix A hereof, granted by Decision 42623 dated March 15, 1949 in Application 29693, as amended by Decision 43049 dated June 28, 1949

in the same proceeding, and as modified by Decision 84790 dated August 12, 1975 in Application 55762, is hereby suspended until July 25, 1977.

2. Within thirty days after the effective date hereof and on not less than five days notice to the Commission and the public, petitioner shall amend its tariffs presently on file with the Commission to reflect the authority herein granted.


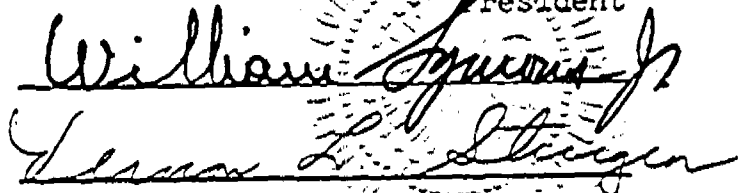
3. Prior to resumption of service, tariff schedules naming rates and rules governing the common carrier operations herein shall be brought up to date in compliance with all applicable Commission minimum rate orders. The required tariff filings shall be made effective on not less than ten days notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the expiration date of the suspension period or the date when service is resumed when the latter date is prior to the said expiration date.

4. The authority granted herein to suspend operations shall expire on July 25, 1977 or upon earlier resumption of operations which may be effected upon compliance with Ordering Paragraphs 2 and 3.

5. Asbury Transportation Co. is placed on notice that commencement of operations under the suspended portion of the certificate referred to in Ordering Paragraph 1 herein, prior to compliance with Ordering Paragraphs 2 and 3 may be cause for further suspension or revocation of the operating authority of Asbury Transportation Co.

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

Dated at San Francisco, California, this 27th day of
July, 1976.


President

William J. Stinger

Commissioners

Commissioner Leonard Ross, being
necessarily absent, did not participate
in the disposition of this proceeding.

Commissioner Robert Batinovich, being
necessarily absent, did not participate
in the disposition of this proceeding.

The following portion of the highway common carrier certificate granted to Asbury Transportation Company by Decision 42623 dated March 15, 1949 in Application 29693 is hereby suspended through July 25, 1977 for all shipments having origin and destination within that part of the State of California embraced by the following boundary:

From the point of Half Moon Bay on the Pacific Ocean, thence easterly through the points of Turlock and Mariposa to the California-Nevada State Line near Benton Station; thence southerly along the California-Nevada State Line and the California-Arizona State Line to its junction with the International Boundary with Mexico; thence westerly along said boundary to its junction with the Pacific Ocean; thence northerly along the shoreline of the Pacific Ocean to the point of beginning.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 86177, Application 55762.