

Decision No. 86254

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Roy W. Paul
doing business as BOND VAN
& STORAGE COMPANY for
reinstatement of household
goods carrier permit.

Application No. 56294
(Filed February 26, 1976)

Roy Paul, for himself.
Michael R. Flaherty and
William G. Waldorf,
for the Commission
staff.

O P I N I O N

This is an application for reinstatement of a household goods carrier permit which had been revoked by the Commission. A duly noticed public hearing was held May 14, 1976 before Examiner Tanner at San Francisco. The matter was to be submitted upon the filing of a statement in rebuttal to the Commission staff exhibits, due June 14, 1976. No statement has been filed.

Assembly Resolution No. 57, entered May 22, 1972, requested the Commission to investigate deliberate underestimating by household goods carriers and to issue orders and regulations designed to eliminate deliberate underestimating as a competitive practice. Responsive to that request the Commission undertook an investigation in Case No. 5330 and issued orders and regulations in its Decisions Nos. 81518 and 83505 directed towards that objective. Some of the regulations are set forth in Item 33.7 of Minimum Rate Tariff 4-B. Paragraph 5 of that item requires every household goods carrier to file with the Commission a semiannual report, in a form to be provided by the Commission, of data regarding estimates given during the reporting period.

On June 26, 1975 there was mailed to all household goods carriers, including applicant, two copies of Form HG 2 together with instructions to complete and return one copy in an enclosed pink envelope by July 31, 1975. The instructions further stated that if the properly completed report form is postmarked after July 31, 1975 a fine of \$25 will be levied; and that failure to file the report and pay the fine, if required, may result in a suspension or revocation of the household goods carrier permit or subject the carrier to the imposition of an additional fine, not to exceed \$5,000.

By Resolution No. 17651 dated September 30, 1975, the Commission ordered the household goods carrier permit of applicant suspended effective October 30, 1975 unless on or before that date the HG 2 form is completed and filed and a fine of \$25 paid; and the operating authority so suspended revoked December 1, 1975, unless the fine is paid and the required HG 2 form filed on or before the revocation date, in which event the suspended operating authority shall be reinstated. The resolution further ordered that the suspension and revocation become operative unless prior to the suspension date the carrier requests that a public hearing be held, in which event the suspension and revocation be deferred until further order of the Commission.

On September 30, 1975 notices of the Commission's order in Resolution No. 17651, together with copies of that resolution, were placed in envelopes, sealed, and mailed postage prepaid addressed to Roy W. Paul, Bond Van & Storage Company, P.O. Box 2204, San Jose, California 95109.

On October 2, 1975 applicant was contacted by phone by a representative of the Commission staff. Applicant advised that the completed form HG 2 and the \$25 fine would be mailed to San Francisco.

By letter dated February 24, 1976, applicant stated that on February 13 he was informed of the revocation of the permit. In the letter it was explained that applicant's business partner had passed

away, that he was forced to move to smaller quarters, and that the required report was due during this period. A request for reinstatement was made. The letter was docketed as this application.

According to applicant no oversight or error has been committed. He denied receiving the telephone messages or other communications from the Commission. He explained that his records were not yet in proper order and that he was not completely aware of the records in question. He stated that he had complied with all the Commission's requirements and that if any error existed it was more likely in the Commission office, not his.

Applicant was granted permission to file a rebuttal to the allegation in the staff's Exhibit 2. The rebuttal statement was due June 14, 1976, at which time the matter would stand submitted. As of this date no statement has been received.

Findings

1. Applicant was issued a household goods carrier permit on June 10, 1969.
2. Applicant was notified by the Notice dated June 26, 1975 of the requirement that Form HG 2 be completed and filed.
3. Applicant failed to file the Form HG 2, due on or before July 31, 1975.
4. Applicant's household goods carrier permit was revoked December 1, 1975 pursuant to Resolution No. 17651 dated September 30, 1975.

We conclude that applicant's permit was revoked with good cause and no evidence is at hand which would show that the revoked authority should be reinstated. The application will be denied.


Applicant is placed on notice that operations conducted without proper authority as a household goods carrier are unlawful and are subject to fines or penalties as prescribed by law, including punishment for contempt.

O R D E R

IT IS ORDERED that Application No. 56294 is denied.

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

Dated at San Francisco, California, this 17th
day of AUGUST, 1976


President


Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.