

Decision 91-04-064 APRIL 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the operations, rates and)
 practices of All Counties Express,)
 Inc., a California corporation; and)
 Cascade Steel Rolling Mills, Inc. an)
 Oregon corporation; Gary Metals, Inc.,)
 a California corporation; and Pitcal,)
 Inc. and Posco-West Corp., Delaware)
 corporations doing business jointly as)
 USS-Posco Industries.)

ORIGINAL

I.88-08-047
(Filed August 24, 1988)

ORDER REOPENING INVESTIGATION
AND ORDER TO SHOW CAUSE

All Counties Express, Inc., a highway carrier doing business at 30664 Dyer Street, Union City, California 94587 was ordered in Commission Decision (D.) No. 90-09-058 to pay fines of \$1,500 and \$56,398.07 to the Commission, to collect undercharges of \$31,289.77 from respondent shipper Pitcal, Inc. dba USS-POSCO Industries, \$23,659.77 from respondent shipper Cascade Steel Rolling Mills, Inc., and \$1,448.53 from respondent shipper Gary Metals, Inc.

Although the fine of \$1,500 has been paid, the undercharge fine, which was due February 19, 1991, has not been paid.

Based on the statements in the attached affidavit, the Commission hereby reopens OII 88-08-047. Respondent All Counties Express, Inc. may appear and show cause why its operating authorities should not be cancelled or revoked for failure to comply with the terms and provisions of D.90-09-058 (under Sections 1070 and/or 3774 of the Public Utilities Code.

A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to be determined, where the Respondent may appear and be heard.

The Executive Director is directed to cause a certified copy of this order to be personally served on Respondent All Counties Express, Inc., and to cause a certified copy of this order to be served by mail on each respondent shipper.

This order is effective today.

Dated April 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT

President

G. MITCHELL WILK

JOHN B. OHANIAN

DANIEL Wm. FESSLER

NORMAN D. SHUMWAY

Commissioners

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY

Neil J. Schulman
NEIL J. SCHULMAN, Executive Director

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AFFIDAVIT IN SUPPORT OF ORDER TO SHOW CAUSE

My name is William G. Waldorf. I am a Senior Transportation Representative for the Commission.

Respondent All Counties Express, Inc. was ordered by CPUC Decision No. 90-09-058, dated September 12, 1990, to perform perform certain acts. Specifically, All Counties Express, Inc. (hereinafter "ACE") was ordered to:

1. Pay a fine of \$1,500 to the Commission before the 40th day after the effective date of the order,
2. Pay 7% annual interest on the fine commencing from the date of any delinquency,
3. Collect undercharges of \$56,398.07,
4. Pay a fine of \$56,398.07 to the Commission no later than the 120th day after the effective date of the order,
5. Cease and Desist violating the Public Utilities Code and Commission rules and regulations.

Records maintained by the Executive Director of the Commission indicate that service of the Decision and Order was made on ACE by personal service of a certified copy upon E. J. Medeiros, the Vice President of ACE, on September 18, 1990.

Service of the Decision and Order was also made upon D. G. Redlingshafer, the Transportation Consultant representative of ACE, on September 18, 1990.

By letters dated January 14, 1991 and February 27, 1991, the PUC staff advised ACE's representative, D. G. Redlingshafer of ACE's failure to comply with Ordering Paragraphs Three and Four of the Decision. Copies of these letters were also mailed to ACE. In response to these letters ACE paid the \$1,500 fine, plus interest, in compliance with Ordering Paragraphs One and Two.

On April 1, 1991, the staff received a letter from ACE's representative which contained copies of invoices to the three shipper respondents in this matter concerning collection of the undercharges specified in the Commission decision. These invoices were dated March 26, 1991.

On April 5, 1991, the staff sent certified letters to shipper respondent Gary Metals, Inc., John Clark, Counsel for Cascade Steel Rolling Mills, Inc., and Christopher A. Conkling, counsel for Posco-West Corp., dba USS-Posco Industries. These letters included copies of the March 26, 1991 ACE invoices. Copies of receipts for these certified letters have been received by staff.

Shipper respondents Cascade Steel Rolling Mills, Inc. and USS-Posco Industries, through their counsels, have advised the staff that they do not intend to pay the undercharges set forth in Decision No. 90-09-058 until required by a court order. Further, counsel indicated that should ACE seek a court order, Cascade and USS-Posco Industries would countersue ACE on a claim of fraud.

A thorough review of the records of the Commission indicates that no payment of the fine specified in Ordering Paragraph Four or remission of undercharges has been received by the Commission.

I.88-08-047

L/bjk *

I hereby declare under penalty of perjury that the statements in this affidavit are true to the best of my knowledge and belief.

Dated April 18, 1991

William G. Waldorf
William G. Waldorf
Senior Transportation Representative