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Decision 91-08-001 August 7, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of KVS, Inc. requesting)
a hearing on the Commission)
Resolution CE 12-90 suspending)
carrier operations for failure to)
comply with various citations.)

ORIGINAL

Application 91-03-057
(Filed March 27, 1991)

Gary Hartman, for KVS, Inc., applicant.
Tom Boyd, for the Transportation Division.

OPINION

KVS, Inc. (KVS) requests that the Commission rescind Resolution CE 12-90, dated January 15, 1991, suspending and revoking its operating authority for failure to comply with various citations.

A duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in San Francisco on May 29, 1991 and the matter was submitted for decision.

Procedure

KVS is a common carrier (T-146,517) which consented in writing to pay two citation forfeitures in the combined amount of \$3,200 and undercharge fines to be collected from shippers as follows:

Angell Distributing	\$1,139.01
Mendocino Farm Supply	2,587.66
Hansell Materials	<u>2,368.82</u>
Total	\$6,095.49

The citations were signed by KVS on September 10, 1990 and October 18, 1990 but the fines remained unpaid until January 15, 1991, when the Commission issued Resolution CE 12-90 suspending the carrier's operating authority.

Evidence

At hearing, KVS stated that it had paid the two citation forfeitures of \$3,200 on February 28, 1991 and had written to the shippers owing fines in F-3764-A demanding payment. Applicant's testimony is that the shippers have orally promised to pay the fines and that KVS will pursue collection of the undercharges with due diligence.

Transportation Division suggests that applicant should be permitted to resume operations and that applicant should be allowed a reasonable time to collect the undercharges.

Discussion

Since the date Resolution CE 12-90 was issued, applicant has paid the fines assessed against it as a carrier, and it has conducted good faith efforts to collect undercharges from its shipping clientele.

We concur with Transportation Division that applicant's operating authority should be reinstated with a time limit for collection of the unpaid fines.

Findings of Fact

1. Resolution CE 12-90 suspends the operating authority of KVS (T-146,517) pending payment of undercharge fines of \$6,095.49 in Undercharge Citation F-3764-A, signed October 18, 1990.
2. KVS applied for a public hearing to present evidence that the Commission should rescind the suspension.
3. At hearing, KVS showed that it was exercising due diligence in its efforts to collect undercharges that it admits were made.
4. Transportation Division suggests that applicant should be permitted to resume operations and that a reasonable time should be allowed for collection of the undercharges.

5. The admitted undercharges are as follows:

Angell Distributing	\$1,139.01
Mendocino Farm Supply	2,587.66
Hamsell Materials	<u>2,368.82</u>

Total	\$6,095.49
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Conclusions of Law

1. Resolution CE 12-90, Suspending and Revoking the Operating Authority of KVS, Inc. for Failure to Comply with Various Citations should be rescinded.

2. Applicant should be allowed a reasonable time to collect admitted undercharges.

3. As the public interest requires prompt restoration of applicant's operating authority, this order should be effective immediately.

ORDER

IT IS ORDERED that:

1. Resolution CE 12-90, dated January 15, 1991, is rescinded.

2. KVS, Inc. (KVS) shall take such action as may be necessary to collect the undercharges set forth in Finding of Fact 5 and Undercharge Citation No. F-3764-A, including timely legal action.

3. KVS shall pay a fine to this Commission equal to the amount of those undercharges, such fine to be paid as those undercharges are collected, provided that the full \$6,095.49 of such fine shall be paid no later than the 120th day after the effective date of this order.

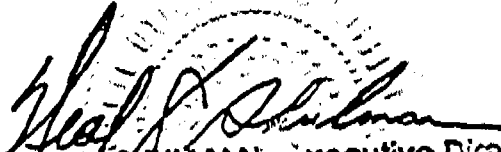
This order is effective today.

Dated August 7, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Daniel Wm. Fessler,
being necessarily absent, did not
participate.

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


NEAL J. SHULMAN, Executive Director