

ORIGINAL

Decision No. 87068

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the status, rules, regulations, operations, service, facilities, equipment, and practices of AMERICAN TRANSFER CO., a California corporation.

Case No. 10246
(Filed January 25, 1977)

Handler, Baker & Greene, by William D. Taylor, Attorney at Law, for respondent.

James R. Foote, for Associated Independent Owner-Operators, Inc., interested party.

James S. Rood, Attorney at Law, for the Commission staff.

INTERIM ORDER

On January 25, 1977 the Commission instituted this investigation to determine, among other things, what steps should be taken by American Transfer Co. to comply with the laws, rules, and regulations governing safety and adequacy of its operations, services, facilities, and equipment and what order or orders should be issued by the Commission to assure such compliance.

On February 10, 1977 a public hearing in this matter was held before Examiner Main at Fresno. At the hearing Sergeant D. J. Bell of the California Highway Patrol testified that the respondent's rolling equipment is frequently operated in noncompliance with applicable equipment safety laws. Exhibit No. 1 was identified and is subject to being admitted in evidence after the respondent has had an opportunity to file written objections on exceptions on or

before March 14, 1977. That exhibit contains an extensive summary of safety violations that the Highway Patrol has found with respect to the respondent's rolling equipment and practices, complete with supporting documentation. The hearing was adjourned after an agreement was reached by the respondent, the Commission staff, and the Highway Patrol concerning a program that would insure that immediate steps would be taken to upgrade the respondent's equipment. That stipulation has been filed with the Commission as late-filed Exhibit No. 2, and has been approved by the respective parties.

The body of the stipulation is as follows:

1. American Transfer Co. will immediately undertake to upgrade its safety maintenance program in conformance with the provisions of the laws, rules, regulations, and procedures relative to the operation of commercial vehicles; and
2. American Transfer Co. will maintain a continuous and systematic maintenance safety program fully staffed and supported with authority to effect compliance with the laws, rules, regulations, and procedures relative to the operation of commercial vehicles; and
3. American Transfer Co. will immediately upgrade its record-keeping procedures to insure proper compliance with the laws, rules, regulations, and procedures relative to the operation of commercial vehicles, including hours of service by drivers; and
4. All trucks, tractors, and trailers owned by American Transfer Co. will be properly registered with the Department of Motor Vehicles of the State of California; and
5. All trucks, tractors, and trailers owned by American Transfer Co. which are parked at its terminal locations as of February 10, 1977, and not now in transit, will be held at those facilities until inspected by

Allen C. Haase Garage, Inc., a company independent of American Transfer Co. and recognized by the parties hereto to be fully competent to inspect American Transfer Co.'s vehicles to determine whether the same are in compliance with the laws, rules, regulations, and procedures relative to the operation of commercial vehicles. Those trucks, tractors, and trailers inspected by Allen C. Haase Garage, Inc. and/or employees of the California Highway Patrol, and certified to be in compliance with the laws, rules, regulations, and procedures relative to the operation of commercial vehicles, may then be operated by American Transfer Co. in its trucking operations. In lieu of a certificate of compliance, that equipment now possessing inspection stickers issued by the California Highway Patrol subsequent to December 31, 1976 may now be operated by American Transfer Co., provided that each unit so stickered is in compliance with the laws, rules, regulations, and procedures relative to the operation of commercial vehicles. The California Highway Patrol will accept the certificates of compliance issued by Allen C. Haase Garage, Inc. as acknowledging that inspection of the subject truck, tractor, or trailer has been made as represented; and

6. The truck, tractor, and trailer equipment owned by American Transfer Co. which is in transit as of February 10, 1977 will be returned, after delivery of the commodities then being transported, to their respective terminal locations to undergo inspection as set forth in paragraph 5 hereto; and
7. American Transfer Co. will retain Mr. Ronald D. Davis of R. D. Davis Company, 10324 San Pablo Avenue, El Cerrito, California 94530, a commerce specialist, as an independent consultant to undertake a complete and thorough review of the company's record-keeping procedures including those relating to driver hours of service and comparable

logs and other related documents.
Recommendation, if any, made by Mr. Davis following his review will be immediately implemented by American Transfer Co.; and

8. American Transfer Co. will submit monthly written reports to Mr. Raymond Wagner of the California Highway Patrol, 1382 West Olive Avenue, Fresno, California, which shall set forth a summary of American Transfer Co.'s compliance with the terms and conditions of this order; and
9. The parties hereto mutually acknowledge that it is in the public interest that they cooperate with each other so that the purpose for and the terms and conditions of this order may be achieved and implemented; and
10. A continued hearing is to be held in this matter on June 9, 1977 at 10 a.m. at the State Building, Room 1015, Fresno, California; and
11. The parties hereto will meet at a status conference to be held on May 19, 1977 at 10 a.m. at the State Building, Room 1015, Fresno, California, in order to review the progress made by American Transfer Co. towards meeting the terms and conditions of this order.

Discussion

The respondent has been in frequent noncompliance with applicable safety regulations according to the testimony of Sergeant Bell. This matter is of grave concern to us. It is clearly not in the public interest for unsafe rolling equipment to be operated on the state's highways, with resultant exposure to the public of needless potential hazard. Highway carriers who pose a chronic hazard to the public by operating unsafe equipment are not operating in conformity with public convenience and necessity. The respondent possesses highway common carrier and petroleum irregular route certificates from this Commission. Pursuant to Section 761 of the

Public Utilities Code, we have authority to order the respondent to cease operations until we are satisfied that he is in compliance with applicable safety regulations and is no longer a threat to the public.

The corrective steps to be taken pursuant to the stipulation (Exhibit No. 2) are sufficient for us to allow the respondent to continue operating. We expect the respondent to take all necessary corrective action to remedy equipment deficiencies and operational practices that pose a safety hazard to the public.

Further hearings will be scheduled to take evidence on whether respondent took the corrective action promised in the stipulation.

Findings

1. The respondent has conducted highway carrier operations in repeated violation of applicable safety regulations.
2. The respondent, the Commission staff, and the California Highway Patrol entered into a stipulation (Exhibit No. 2) whereby the respondent will undertake a program to have its equipment and operating procedures inspected and reviewed to insure that applicable safety regulations are met and satisfied.

IT IS ORDERED that:

1. American Transfer Co. shall make every reasonable effort to comply with the requirements of its stipulated agreement with the Commission staff and the California Highway Patrol (set forth in the body of this decision) directed at upgrading rolling equipment and operating practices to levels that satisfy applicable safety regulations.

2. A further hearing will be held in this matter before Examiner Main on Thursday, June 9, 1977, at 10:00 a.m. in Room 1015, State Building, 2550 Mariposa Street, Fresno, California, to determine whether the respondent has complied with the above order and to take other evidence as is appropriate.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 9th day of MARCH, 1977.

Robert Paul
President

William J. Symons, Jr.

Richard D. Gervais
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.