

ORIGINAL

Decision No. 87286

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition for Investigation of
Operations of APEX BULK COMMODITIES
and PYRAMID COMMODITIES, cement
carriers.

Case No. 9959
(Filed August 18, 1975)

ORDER OF DISMISSAL

The above-entitled matter was inadvertently accepted for filing on August 18, 1975. A petition seeking an investigation by the Commission is not the proper subject matter of a formal filing. The Public Utilities Code and the Commission's Rules of Practice and Procedure establish three types of formal proceedings conducted by the Commission: applications (Rule 15), complaints (Rules 9 et seq.), and investigations (Rule 14). Any person seeking affirmative, substantive relief may file an appropriate application or complaint and have the matter formally considered by the Commission.

Whether or not an investigation should be instituted on its own motion is entirely within the discretion of the Commission. A multitude of factors are involved in determining whether to institute an investigation. They include: (1) Evaluating information developed by or presented to the Commission for credibility and to determine whether an investigation might be warranted. (2) Determining priorities among matters which might be the subjects of investigations to establish which ones should be carried forward within the Commission's limited resources. (3) Determining if appropriate personnel are presently available for a particular investigation. (4) Determining if prosecution of the matter involved should be left to aggrieved or interested parties. (5) Determining whether a matter is ripe for investigation. (6) Weighing the costs of an investigation to the Commission and parties involved against the benefits which might be derived therefrom.

Any person or regulated entity has the right to communicate with the President and/or members of the Commission, executive director, and members of the Commission staff and request that the Commission institute an investigation. However, to permit this to be done by a formal filing would be counterproductive. To permit a person to present evidence to induce the Commission to institute an investigation when such evidence could be directly presented on the merits of the issue in an application or complaint proceeding leads to a waste of time and money for all concerned. Furthermore, the Commission receives numerous requests to institute investigations. If these requests were subject to formal handling (pleadings, hearings, decisions with findings and conclusions, etc.), the ability of the Commission to perform its regulatory functions would be severely impaired.

On May 6, 1976, the examiner assigned as Docket Office Advisor informed the attorney for petitioner that the matter would be dismissed unless the pleading was amended to state a complaint cognizable by the Commission for which petitioner, as a complainant, would assume the burdens of proof and prosecution. No amendment had been filed.

The Commission finds that:

1. The petition filed as Case No. 9959 is not the proper subject of a formal proceeding before the Commission.
2. Petitioner was offered an opportunity to amend the petition to state a complaint subject to the jurisdiction of the Commission but failed to do so.

Conclusion of Law

The matter should be dismissed.

IT IS ORDERED that Case No. 9959 is hereby dismissed.

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

Dated at San Francisco, California, this 3rd
day of MAY, 1977.

Robert Bateman
President
William Lyons, Jr.
Veronica L. Sturgeon
Richard D. Shuck

Commissioners