

Decision No. 87426 JUN 1 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
 motion into the operations, rates and
 practices of McANALLY TRANSPORTATION,
 INC., a California corporation; OH BOY!
 CORPORATION, a California corporation;
 POPPY FOOD COMPANY, a California corpora-
 tion; ZACKY AND SONS POULTRY COMPANY, a
 California corporation; GOLDEN WHITE,
 INC., a California corporation; VERDA
 POULTRY COMPANY, a California corporation;
 and McANALLY ENTERPRISES, INC., a
 California corporation.

Case No. 9748

ORDER FURTHER MODIFYING DECISION NO. 84196

Decision No. 84196 dated March 18, 1975, as affirmed by
 Decision No. 86021 dated June 29, 1976, directed McAnally
 Transportation, Inc. (McAnally), among other things, to collect
 \$10,201.79 in undercharges from Oh Boy! Corporation (Oh Boy) and
 to pay a fine in the amount of the undercharges. Rehearing of
 Decision No. 86021 was denied by Decision No. 86348 dated August
 31, 1976. Decision No. 86954 dated February 8, 1977 extended the
 time within which McAnally is required to pay the fine to August
 31, 1977 and provided that status reports of the action taken to
 collect the undercharges shall be filed on a quarterly basis. A
 lawsuit has heretofore been filed against Oh Boy by McAnally for the
 undercharges.

By letter dated May 16, 1977, McAnally's attorney requests
 that Oh Boy be permitted to pay the undercharges directly to the
 Commission at the rate of \$1,000 per month commencing with June 1,
 1977 and continuing on the first day of each succeeding month until

they are paid in full. Attached to the attorney's letter are copies of Oh Boy's letter to the Commission dated May 5, 1977 agreeing to this and a general mutual release by the parties which provides that the installments will be paid by Oh Boy directly to the Commission and that McAnally will file a request for dismissal with prejudice in its undercharge suit against Oh Boy within ten days after all installments have been paid. Oh Boy pointed out in its letter that it has experienced losses in its business and that because of this, it would be an extreme hardship to pay the total amount of the undercharges in a lump sum. The Commission's Transportation Division has advised that it has no objection to the proposed plan.

We find that the request is reasonable and conclude that it should be granted. Because the first payment is to be made by Oh Boy on June 1, 1977, the order which follows will be made effective on the date it is issued.

IT IS ORDERED that:

1. Subject to Ordering Paragraph 2, the \$10,201.79 remaining to be paid on the fine McAnally Transportation, Inc. was directed to pay to the Commission by Decision No. 84196, as affirmed by Decision No. 86021, shall be paid by Oh Boy! Corporation to the Commission in ten monthly installments of \$1,000 each and a final monthly installment of \$201.79 commencing with June 1, 1977 and continuing on the first day of each succeeding month until paid in full. Oh Boy! Corporation may accelerate the payment schedule if it desires.

2. In the event Oh Boy! Corporation should default on any of the installment payments referred to in Ordering Paragraph 1, McAnally Transportation, Inc. shall be immediately responsible for paying to the Commission any unpaid balance of the \$10,201.79 fine.

3. In all other respects, Decision No. 84196, as amended, shall remain in full force and effect.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 1st
day of JUNE, 1977.

Robert B. Burt

President

William J. Symons Jr.

Vernon L. Stinson

Michael W. Chavala

Commissioners