

Decision No. 87673 AUG 2 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition  
of Asbury Transportation Co.,  
for approval of the suspension  
of a portion of its Highway  
Common Carrier Operating  
Authority.

Application No. 55762

SECOND INTERIM OPINION EXTENDING SUSPENSION

By D.86177 dated July 27, 1976 in this proceeding applicant was authorized to suspend a portion of its certificate of public convenience and necessity until July 25, 1977. Applicant seeks an extension of the suspension for another year. Its justification for the extension is based upon alleged economic needs and that these needs can best be met in the suspended territory by operating therein as a permitted carrier.

While we contemplated holding hearings on whether or not applicant's suspended portion of its certificate should be revoked, as set forth in D.86177, applicant requested that the hearing which had been scheduled for December 6, 1976 be delayed until after a determination by the Commission on the rates and charges for Minimum Rate Tariff 6. The request was granted.

On July 12, 1977 the Administrative Law Judge advised applicant's president (confirmed by letter of July 18) that the suspension period was nearing its end and that tariffs must be filed to be effective July 25, 1977 reinstating service on the suspended portion of the operating authority. Applicant's president advised that such filing would be made. By letter of July 20, 1977 applicant

advises us of its reconsideration to file the tariffs, claiming that it should not be required to make the tariff filings while the matters involved in C.10368, an investigation regarding the filing of tariffs by petroleum irregular route carriers, and C.5436 OSH 244, an investigation concerning a proposed regulatory program, remain unresolved.

We appreciate applicant's concern and will authorize a continuation of the extension to December 31, 1977. At the same time, we reiterate what we said in D.86177:

"...there are a substantial number of certificated carriers who are ready and able to fill the public need in the area herein under consideration; however, prior to the expiration of the suspension period authorized herein, we will reopen the proceeding in Application 29693, and related proceedings, to determine whether or not the suspended portion of the certificate should be revoked on the premise that public convenience and necessity no longer require the petitioner's services in the area in question. We have no intention of abandoning our duty to see that certificated carriers discharge their obligations to the public properly."

SECOND INTERIM ORDER

IT IS ORDERED that:

1. Concurrent with the tariff filings required by Ordering Paragraph 2 hereof, the suspension of operating authority authorized by interim Decision No. 86177 dated July 29, 1976 in Application No. 55762 is further suspended to December 31, 1977.

2. Within thirty days after the effective date hereof and on not less than five days' notice to the Commission and the public, applicant shall amend its tariffs presently on file with the Commission to reflect the authority herein granted.

3. Prior to resumption of service, tariff schedules naming rates and rules governing the common carrier operations herein shall be brought up to date in compliance with all applicable Commission minimum rate orders. The required tariff filings shall be made effective on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the expiration date of the suspension period or the date when service is resumed when the latter date is prior to the said expiration date.

4. The authority granted herein to suspend operations shall expire on December 31, 1977 or upon earlier resumption of operations which may be effected upon compliance with Ordering Paragraphs 2 and 3.

5. Asbury Transportation Co. is placed on notice that commencement of operations under the suspended portion of the certificate referred to in Ordering Paragraph 1 herein, prior to compliance with Ordering Paragraphs 2 and 3, may be cause for further suspension or revocation of the operating authority of Asbury Transportation Co.

6. A hearing will be held on Tuesday, November 1, 1977, at 9:30 a.m. before Administrative Law Judge Peeters in the Commission Courtroom, State Office Building, 107 South Broadway, Los Angeles, California, at which time and place applicant and interested parties may appear and be heard on the issues of whether applicant has abandoned a portion of its operating rights and whether public convenience and necessity require service on the suspended portion of the operating authority of Asbury Transportation Co.

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

Dated at San Francisco, California, this 2nd day of AUGUST, 1977.

Robert Batminal  
President  
William Lyons Jr.  
Vernon L. Sturgeon

Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.