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Decision No. 89162

JUL 25 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
motion to establish requirements to  
be met by applicants for highway  
carrier authority issued by the  
Commission

Case No. 10278

AMENDMENT TO ORDER INSTITUTING INVESTIGATION

The Order Instituting Investigation in Case No. 10278 was issued March 9, 1977. Hearings have been completed on the first phase of this investigation, involving administrative guidelines for determining financial responsibility (for new permit applicants) and minimum insurance requirements.

A second prehearing conference was held on June 28, 1978, before Commissioner Gravelle and Administrative Law Judge Gagnon, to determine the extent of participation by the Commission staff and interested parties with respect to reviewing areas or issues to be covered in Case No. 10278. It developed at the prehearing conference that there was some confusion among interested parties and respondent carriers as to the extent and scope of issues. At that prehearing conference, it was announced by Commissioner Gravelle that the Order Instituting Investigation in this proceeding would be amended by the Commission to more fully explain the issues to be addressed.

The next phase of this investigation will cover subhauling generally (or the relationship between overlying and underlying carriers), and is part of the Commission's continuing overall investigation into highway carrier regulation.

In particular, issues to be resolved in this investigation pertaining to subhauling are generally as follows (the issues

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and any adopted regulatory changes would apply to all existing highway carriers.):

- 1) What type of operating authority, if any, should be required from the Commission to operate as a subhauler. Are subhaulers "carriers" subject to Commission regulations? And, for example, should there be restrictions requiring subhaulers to hold the same operating authority as the overlying carrier?
- 2) What changes, if any, to General Order No. 102 (which deals generally with overlying-underlying carriers) are in the public interest?
- 3) Whether it is in the public interest for the Commission to establish and regulate a division of revenue between overlying and underlying carriers.
- 4) What rules and regulations, if any, should be adopted to govern the practice of subhauling with respect to traffic moving under deviated (Section 3666 of the Public Utilities Code) rates?

At the prehearing conference of June 28, 1978, it was determined that the above four issues would be addressed by the Commission at hearings commencing at 10 a.m., October 17, 1978, at the Commission Courtroom, 350 McAllister Street, San Francisco. Further, on August 16, 1978, at 10 a.m., at the Commission courtroom, the Commission's Transportation Division will hold an informal conference to discuss these issues with interested parties.

This investigation will also explore, in due course:

- 1) What activities constitute those of a transportation broker and what, if any, rules and regulations should be adopted to regulate such activity?
- 2) Carrier-carrier, underlying carrier - overlying carrier, and shipper-carrier contractual relationships (including adequacy of General Order 130).

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- 3) What, if any, rules, regulations or requirements should the Commission adopt to cover, alter ego (affiliated) relationships and operations between affiliated carriers and affiliated carriers-shippers?

IT IS ORDERED that:

1. The Order Instituting Investigation in Case No. 10278, issued March 9, 1977, is hereby amended in that the issues set forth in Topics 5 and 6 include whether existing rules and regulations should be modified and/or additional classifications or restrictions should be established for existing and prospectively licensed highway carriers governing the relationships between:

- A) Carriers
- B) Carriers and shippers
- C) Overlying and underlying carriers
- D) Carrier and employee lessors
- E) Transportation brokers and carriers and shippers

2. The Executive Director shall cause copies of this order to be served by mail on all highway carriers.

Dated at San Francisco, California, this 25th day of JULY, 1978.

Robert Bateman  
President  
William Synnors, Jr.  
Vernon L. Sturgeon  
Richard D. Howell  
Clare T. Hedrick  
Commissioners