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Decision No. 90859 SEP 25 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application [
of David W. Loper (Madsen Service)]
for a request for waiver from [
insurance requirements of the [
PUC, Fresno.]

Application No. 58970
(Filed June 26, 1979)

ORDER OF DISMISSAL

David W. Loper, doing business as Madsen Service, applies for a waiver from our recently increased minimum insurance requirements. Loper currently holds authority as a radial highway common carrier for statewide transportation of general commodities but his current operation is limited to the transportation of human remains in 3/4-ton vans in the Fresno vicinity. (At the time his authority was granted in 1975, his equipment was listed as one 1973 Dodge Van. See File No. T-109,325, of which we take official notice. His application implies that he now has more than one vehicle, but the number is not stated.)

Loper's current vehicle liability insurance is stated to be \$100,000/\$300,000/\$50,000. In Case No. 10728, an investigation which began in 1977, we have exhaustively considered various requirements to be met by applicants for highway carrier authority issued by this Commission, including financial responsibility and levels of insurance coverage. Decision No. 89201, issued August 8, 1978, concerned public liability and property damage insurance. The Commission staff and numerous parties presented detailed evidence and recommendations. The testimony of an insurance actuary was received, surveys of jury verdicts were analyzed, and trends in the law of negligence were considered. After fully analyzing this,

and other evidence we found the then existing minimum level of such insurance^{1/} (\$100,000/\$300,000/\$50,000) to be "inadequate and not in the interest of public safety." (Finding 5). We raised the minimum to \$250,000/\$500,000/\$100,000 or a combined single limit of \$600,000.

Loper's application invites attention to the small nature of his operation and claims that he will have to raise his charges 35 percent to pay for the higher insurance. The probability that our new insurance levels would have an upward effect on rates was foreseen in Decision No. 89201. Finding 8 in that decision states:

"To what extent, if any, highway carriers incur increased insurance costs, as a result of the Commission's order herein, which should now be offset by appropriate rate relief cannot be determined from the evidence of record in this proceeding. However, carriers desiring such rate relief have ample formal and/or informal remedies at their immediate disposal. Common carriers can file for appropriate tariff authority to adjust rates. Permitted carriers may increase rates without prior authority. Finally, carriers may request an increase in minimum rates."

Our opinion is that this application presents no triable issue and should be dismissed. We have not in the past waived minimum insurance requirements on the ground of the small size of the operation or for alleged hardship grounds and should not begin doing so now. Our records indicate that there are about 15,000 radial highway common carriers, and over 20,000 carriers of all classes, including the radials. A waiver for one will place economic pressure on others to apply for similar waivers

^{1/} Higher limits are involved for bulk petroleum carriers. This decision does not require separate discussion of them.

to maintain competitive costs and rates; thus, we might well be saddled with hundreds or even thousands of similar applications, rendering our minimum requirements less than meaningful.

Additionally, although Loper's operation at present is small and specialized, he (and other similar radial operators) actually hold authority as general freight carriers, statewide. He may expand his authority simply by the purchase of the appropriate tariffs; no formal application is necessary. We take official notice of the fact that under our current Senate Bill 860 filings, allowing radials to convert to certain other classifications, Loper has applied for and has been granted a highway common carrier certificate for statewide transportation of general commodities, effective April 30, 1980. We have no knowledge of any intent by Loper to use his present or his new authority to expand his operations, but the point is that since he (and other similar operators) may legally do so, this is another reason for not granting any waiver from minimum insurance requirements.

We find that no triable issue of fact or of law is presented and conclude that this application should be dismissed.

IT IS ORDERED that this application is dismissed.

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

Dated SEP 25 1979, at San Francisco, California.

John E. Bayron
President

Leslie L. Sturgeon

Robert D. Hinkle

Charles J. ...

Arnold ...
Commissioners