

ORIGINAL

Decision No. 91990 JUL 2 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GRAND CENTRAL PRODUCE, INC., for modification of D.90512, San Bernardino.

) Application No. 59064  
) (Filed August 13, 1979)

Investigation on the Commission's own motion into the operations, rates and practices of Grand Central Produce, Inc., Jack Hadley, Luis Campos, Tony Martinez, d.b.a. E and M Trucking, Richard Vargas, I. Manriquez, a.k.a. Chilo Manriquez, Genero L. Bracamonte, George Bracamonte, Sr., George Bracamonte, Jr., William P. Hoyt, d.b.a. Hoyt Trucking, Samuel L. Johnson, Frank Estupinian, John Livacich Produce, Inc., a corporation, d.b.a. Aapollo, and John Livacich Produce, Inc., a corporation.

) OII No. 29  
) (Filed October 17, 1978)

ORDER AMENDING DECISION NO. 90512

By Application No. 59064, Grand Central Produce, Inc. (GCP) requests a modification of the \$5,000 punitive fine imposed on it by Ordering Paragraph 1 of Decision No. 90512 dated July 3, 1979 in Order Instituting Investigation No. 29. The decision found, among other things, that: (1) GCP had engaged subhauliers to transport produce shipments from the field to a warehouse in Los Angeles and, at a later time, to transport the produce to customers of the warehouse; (2) each shipment to the warehouse and the subsequent movement of the same freight to the warehouse's customers were separate shipments and not part of a single continuous Produce Service Shipment from the field to the customer; (3) the only documents in the files of GCP and the subhauliers were for the transportation from the field to the warehouse, and this is the only transportation for which GCP was paid and for which it or anyone else paid its subhauliers; and (4) GCP

should be directed to collect charges for the transportation from the warehouse to the retail customers and pay its subhaulers for this transportation. None of the punitive fine has been paid. GCP has advised by letter dated March 10, 1980 that it has complied with the other directives in the decision to collect undercharges, pay subhaulers, and pay an undercharge fine of \$476.46.

As justification for the sought amendment, GCP asserted that: (1) it was its intent to rate all of the transportation in issue under the Produce Service Shipment rule provisions in Items 10 and 290 of Minimum Rate Tariff 8-A; (2) it was not aware that its interpretation of this rule was not correct and that the transportation could not be rated in this manner; (3) it has corrected its rating procedure and is no longer making this error; (4) it has not heretofore been a respondent in a Commission investigation; and (5) staff counsel, at the hearing in this matter, recommended a punitive fine of \$3,000. For these reasons, GCP requests that \$2,500 of the \$5,000 fine be suspended on the condition that it does not violate any of the Commission's rates, rules, or orders in the future and that if it complies with this condition, the suspended portion of the fine be waived after a year without further order of the Commission.

In our discussion of the amount of the punitive fine imposed in Decision No. 90512, we pointed out that it has been our policy in investigation matters involving free transportation and documentation failure to impose the maximum punitive fine of \$5,000. However, based on the additional mitigating circumstances brought to our attention in the application herein and in GCP's letter of March 10, 1980, we are of the opinion and find that the requested reduction of the punitive fine is reasonable, and we conclude that it should be granted.

The order should become effective on the date of signature because of our delay in deciding this matter.

IT IS ORDERED that:

1. Ordering Paragraph 1 of Decision No. 90512 in Order Instituting Investigation No. 29 is amended as follows: (1) \$2,500 of the \$5,000 fine specified therein is suspended upon the condition that Grand Central Produce, Inc. cease and desist from any further violations of any of the Commission's rates, rules, or orders; (2) in the event Grand Central Produce, Inc. complies with the aforementioned condition during the one-year period following the effective date of this order, the \$2,500 suspended portion of the fine shall be waived without further order of the Commission; (3) in the event Grand Central Produce, Inc. should not comply with the aforementioned condition within the time period specified, the \$2,500 suspended portion of the fine shall immediately become due and payable; and (4) interest at the rate of seven percent per annum shall be paid on the part of the fine which has not been suspended commencing forty days after the effective date of this order, and on the \$2,500 suspended portion of this fine, if applicable, commencing on such date that it might become due and payable.

2. In all other respects, Decision No. 90512 in Order Instituting Investigation No. 29 shall remain in full force and effect.

3. To any extent not granted herein, Application No. 59064 is denied.

The effective date of this order is the date hereof.

Dated JUL 2 1980, at San Francisco, California.

John E. Boyer  
President  
James L. [unclear]  
Michael D. [unclear]  
Clarence J. [unclear]  
Thomas M. [unclear]  
Commissioners