

Decision No. 92433      **NOV 18 1980**

**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 Associated Freight ) Lines, a California corporation, ) Respondent. )

OII No. 71  
(Filed June 3, 1980)

E. I. Lentz, Jr., for Associated Freight Lines, respondent.  
Elmer Sjostrom, Attorney at Law, and Paul Wuerstle, for the Commission staff.

O P I N I O N

This is an investigation on the Commission's own motion into the operations, rates, and practices of Associated Freight Lines, a California corporation, for the purpose of determining whether respondent has violated Section 702 of the Public Utilities Code by failing to remit collect-on-delivery (C.O.D.) funds to shippers within 10 days of delivery as required by General Order No. 84-G.

Public hearing was held before Administrative Law Judge Fraser at San Francisco on July 23, 1980, and the matter was submitted on a stipulation which was placed in evidence by staff counsel as Exhibit 1. An information sheet on the carrier and the shipping documents which described the concerned transportation were placed in evidence as Appendices 1 and 2 to Exhibit 1. Respondent was represented at the hearing by an official from its Oakland office. The stipulation was dated July 21, 1980 and was signed by staff counsel and the vice president of Associated Freight Lines. The stipulation affirmed that the staff allegations in the Order Instituting Investigation were all true and correct and that a fine of \$5,000 should be imposed pursuant to Section 1070

of the Public Utilities Code, with \$2,500 of the fine to be suspended on the condition that Associated Freight Lines complies with all tariff and general order provisions pertaining to the handling of C.O.D. shipments during the one-year period following the effective date of the Commission's order. The stipulation included the statement that on May 29, 1979 respondent was served with Citation Forfeiture No. F-1737 which alleged violation of Section 702 of the Public Utilities Code for failure to remit C.O.D. moneys within the time provided in General Order No. 84-A. The fine of \$1,200 was paid in full. After review, we find that the stipulation entered by staff and the respondent is reasonable, and we will impose the fines and penalties suggested by the stipulation.

In view of the record and the stipulation on file herein, the Commission finds as follows:

1. Respondent operates under a highway common carrier certificate granted by Decision No. 86731 effective December 27, 1976 and a highway common carrier certificate granted under Section 1063.5 of the Public Utilities Code (radial highway common carrier permit conversion), effective on April 30, 1980.

2. Respondent was served with the appropriate tariffs and all supplements thereto.

3. Respondent employs 40 clerical, 45 management, and 165 driver and service personnel in terminals located in Oakland, Los Angeles, Mountain View, Sacramento, Santa Rosa, Modesto, and Fresno.

4. Respondent's gross operating revenue for 1979 was \$10,895,995. ✓

5. Respondent has violated Section 702 of the Public Utilities Code by failing to remit \$165,931.70 collected on 339 shipments transported in October, November, and December 1979, within 10 days of shipment delivery as required by General Order No. 84-G.

6. In connection with the future handling of C.O.D. shipments, Associated Freight Lines shall accept payment of C.O.D. money only in the form and manner prescribed in General Order No. 84-G and applicable tariff items, including Item 430 of National Motor Freight Classification NMF 100-G and supplements thereto and reissues thereof.

59 ~~Respondent has complied with the tariff and all other provisions thereof. The fine of \$5,000 is recommended. J.D.~~  
Conclusions of Law ~~and may be doubled if there are further violations.~~

1. Respondent has violated Section 702 of the Public Utilities Code and Commission General Order No. 84-G.

2. Respondent should pay a fine of \$5,000 pursuant to Section 1070 of the Public Utilities Code with \$2,500 of the fine to be suspended upon the condition that Associated Freight Lines complies with all tariff and general order provisions pertaining to the handling of C.O.D. shipments during the one-year period following the effective date of the Commission's order. The fine should be paid in five successive monthly installments of \$500 each, commencing 40 days following the effective date of the Commission's order.

O R D E R

IT IS ORDERED that:

1. Respondent Associated Freight Lines shall pay a fine of \$5,000 to this Commission in five successive monthly installments of \$500 with the first installment due forty days following the effective date of this order. \$2,500 of the fine will be suspended upon the condition that Associated Freight Lines complies with all tariff and general order provisions pertaining to the handling of C.O.D. shipments during the one-year period following the effective date of this order.

2. In the handling of C.O.D. shipments Associated Freight Lines shall accept payment of C.O.D. moneys only in the form and manner prescribed in General Order No. 84-G and applicable tariff items, including Item 430 of National Motor Freight Classification NMF 100-G and supplements thereto and reissues thereof.

The Executive Director of the Commission is directed to cause personal service of this order to be made upon the respondent Associated Freight Lines. The effective date of this order shall be thirty days after the completion of service on the respondent.

Dated NOV 18 1980, at San Francisco, California.

John E. Guyra  
President  
Vernon L. Sturgeon  
Richard D. Howell  
Clair J. Hestrich  
Donald W. Smith  
Commissioners