

Decision No. 92588

JAN 6 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of AMARAL TRUCKING INC., a California corporation, for authority to deviate from the provisions of General Order No. 102-G in connection with payments to subhaulers and sub-subhaulers.

Application No. 59638  
(Filed October 7, 1980)

O P I N I O N

By this application, Amaral Trucking, Inc. (Amaral) requests authority to deviate from those provisions of General Order No. 102-G requiring payment to subhaulers within 15 days of the completion of the transportation. Amaral proposes to pay its subhaulers once each month. The payment would be by the 15th day of the month following the month in which the transportation occurred. The application will be denied.

The application alleges that a majority of its 30 regular subhaulers desire to be paid only once each month. The application also states that Amaral has difficulty securing timely payment from its customers. This difficulty will result in cash flow problems if it is required to pay subhaulers more promptly than previously required. The application was supported by a letter signed by 16 subhaulers.

Discussion

The proceeding involves a deviation from a General Order of the Commission. There is no statutory requirement to conduct an oral hearing in such proceedings. Because all facts alleged in the application may be presumed true, there is no need for an oral hearing. This application will, therefore, be decided ex parte.

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A.59638 ALJ/nb \*

General Order No. 102-G was issued by Decision No. 91247 dated January 15, 1980 following extensive public hearings. In that decision we specifically found that:

"21. Shortening the period for payment of sub-haulers to 15 days is reasonable and desirable, particularly in view of escalating costs which subhaulers generally incur in advance of payment."

General Order No. 102-G became effective on November 7, 1980, some nine months after its issuance. We feel that that time period has afforded both prime carriers and subhaulers ample time to adjust their schedule of financial transactions.

The credit rules contained in Amaral's tariff and in the Commission's tariffs provide for billing within seven days of a shipment and payment within seven days of billing. To grant this application based on the fact that the carrier is not complying with the credit rules would be tantamount to condoning such violations.

Also a grant of the application, based on the support of a majority of the involved subhaulers, is undesirable for two reasons: (1) it could lead to a flood of similar requests, and (2) it could encourage overlying carriers to coerce their subhaulers to support similar applications.

We will not view with sympathy applications such as this absent compelling reasons unique to a specific carrier. If we have created a rule which is unduly burdensome to the industry as a whole, then the rule should be changed for everyone, not just for individual carriers.

Findings of Fact

1. Amaral engages 30 subhaulers on a regular basis.
2. A majority of the 30 subhaulers desire to be paid only once a month.
3. The carrier receives payments for many shipments 20 days or more after completion of the shipments.

4. General Order No. 102-G was issued on January 15, 1980 and became effective November 7, 1980, over nine months after issuance.

5. Nine months' advance notice is sufficient time for overlying and underlying carriers to adjust their schedule of financial transactions to comply with General Order No. 102-G without undue burden.

Conclusions of law

1. The facts do not constitute sufficient reason to grant this application.

2. The application should be denied.

3. <sup>As a matter</sup> ~~An oral~~ hearing is not required.

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O R D E R

IT IS ORDERED that the application of Amaral Trucking, Inc. to deviate from the provisions of General Order No. 102-G is denied.

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

Dated JAN 6 1981, at San Francisco, California.

John E. Coyne  
President  
Michael D. Powell  
Edward J. Smith  
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Commissioners