

**ORIGINAL**Decision No. 92640 JAN 21 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TERESI TRUCKING, INCORPORATED )

Complainant, )

vs. )

PETE J. KOOYMAN, doing business )  
as PETE KOOYMAN TRUCKING )

Defendant. )

Case No. 10924

(November 10, 1980)

ORDER TO SHOW CAUSE WHY  
COMMON CARRIER RATE REDUCTION  
SHOULD NOT BE SUSPENDED

Teresi Trucking, Inc., (Teresi), is a highway common carrier of general commodities between all points in the state. Among other commodities, it publishes rates on iron and steel articles between various points.

This complaint, filed by Teresi, alleges that on October 15, 1980, Pete J. Kooyman (Kooyman), doing business as Pete Kooyman Trucking, a highway common carrier, caused to have filed in Items 337 and 339 of Pacific Coast Tariff Bureau (PCTB), Tariff 301, Cal PUC No. 1, reduced rates on iron and steel articles as described in Items 337 and 339 of that tariff, which were stated to be "Effective upon filing to meet the rates of competing carriers as published in Teresi (sic) Trucking, Inc., Tariff Cal. P.U.C. No. 1 ..."

Teresi alleges that Kooyman's tariff revisions were not filed to meet Teresi's rates but, in several instances, were below the rates in Teresi's Tariff 250, Cal PUC No. 1. Teresi further alleges that Kooyman's rate reduction filing is unlawful, as the Commission's reregulation plan, adopted in Decision No. 90663, dated August 14, 1979, in Case 5432 Petition for Modification 884, et al., requires that highway common carrier rate filings below

the level of the Commission's Transition Tariffs must be accompanied by a statement of justification. Such justification may consist of (1) reference to a motor carrier competitor's rate, or (2) operational and cost data showing that the proposed rates will contribute to carrier profitability.

In applying the reregulation program outlined in Decision 90663, it is our intent that when justification for the filing of a reduced rate is based on a motor carrier competitor's rate, that all of the circumstances and conditions applicable to the motor carrier competitor's rate shall apply to the reduced rate published to meet that competitor's rate. The rate must (1) apply to the same commodity or same group of commodities, (2) apply from and to the same origin and destination points (or from or to directly intermediate points), (3) be subject to the same minimum weight per shipment, and (4) must be subject to the same accessorial charges.

Review of Kooyman's rate reduction filing indicates that in several respects the rate reductions do not meet the above criteria because the rates apply to points other than the points to which Teresi's rates apply; the commodities to which Kooyman's rates apply are more extensive than the commodities to which Teresi's rates apply, and other tariff conditions applicable to Teresi's rates have not been made applicable to Kooyman's rates.

In the circumstances, either Kooyman's rate reduction filing described in the complaint should be withdrawn and refiled to meet the criteria described above or Kooyman should present operational and cost data in support of those rates. Unless satisfactory additional data are supplied by defendant, the reduced rates in Kooyman's filing described in the complaint will not have been shown to be compensatory and, thus, will not comply with our order in Decision No. 90663.

On December 31, 1980, Teresi filed reduced rates to the levels set forth in Kooyman's rate filing in issue in this complaint.

Teresi's tariff filing became effective January 2, 1981. In the event that Kooyman withdraws its rate reduction filing in issue in this proceeding, the Teresi filing to meet Kooyman's rates also should be withdrawn.

O R D E R

IT IS ORDERED that:

1. Defendant Pete J. Kooyman (Kooyman), doing business as Pete J. Kooyman Trucking, is directed to appear at a public hearing in Case No. 10924, scheduled before Administrative Law Judge John W. Mallory, at 10 a.m., Thursday, February 26, 1981, in the Commission's Courtroom, State Building, 350 McAllister Street, San Francisco, California, to show cause why the common carrier tariff filing in issue in Case No. 10924 should not be suspended.
2. Defendant shall supply economic or cost data, as contemplated in Decision No. 90663, to justify the rate reductions involved, or shall refile its tariff pages in issue to conform to the rates, commodity descriptions, minimum weights, and governing rules so as to provide rates and charges no lower in volume or effect than the rates, commodity descriptions, minimum weights and governing rules set forth in Rate Reduction Filing 39 (RR-39) of Teresi Trucking, Inc. (Teresi).
3. In the event that Kooyman revises his tariff rates to conform to RR-39, the reduced rates published by Teresi to meet Kooyman's rates shall be cancelled by Teresi.
4. Tariff filings authorized or directed to be made as a result of this order may be filed on one day's notice to the Commission and the public.

5. The Executive Director is ordered to cause personal service of this order on Mr. Pete J. Kooyman and to serve a copy of the order by mail upon Teresi Trucking, Inc.

The effective date of this order is the date hereof.

Dated JAN 21 1981, at San Francisco, California.

John E. Byrne  
President  
Richard D. ...  
James M. ...

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Commissioners