

MAY 5 1981

Decision No. 93025

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
(Filed November 10, 1980)

Osborne R. Thomasson, for Teresi Trucking, Inc.,
 complainant.
Harry Cush, for the Commission staff.

O P I N I O N

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 Pete J. Kooyman (Kooyman), doing business as Pete Kooyman Trucking, a highway common carrier, filed reduced rates on iron and steel articles which were stated to be "effective upon filing to meet the rates of competing carriers as published in Tersi (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. P.U.C. 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 No. 5432, Petition for Modification No. 884 et al., requires that highway common carrier rate filings below the level of the Commission's Transition Tariffs 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.

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

Decision No. 92640 dated January 21, 1981, in this proceeding is an Order to Show Cause why the common carrier rate reduction of Kooyman should not be suspended. That decision ordered:

- "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."

Complainant appeared at the public hearing ordered in Decision No. 92640. Defendant did not appear but he advised the Administrative Law Judge prior to the hearing that he would comply with the Commission's directives by refiling his rates at levels no lower than those contained in the common carrier tariffs or contracts on file with and accepted by the Commission. Complainant advised that it would refile its tariff to remove the reduced rates filed to meet defendant's rates.

The Commission's Transportation Division staff has advised that tariff revisions have been made by both Kooyman and Teresi which remove the reduced rates complained of and that both carriers now maintain rates on iron and steel which are in compliance with the Commission's reregulation plan adopted in Decision No. 90663. Therefore, the issues in the complaint are moot and the complaint may be dismissed.

Findings of Fact

1. Complainant and defendant have refiled their tariffs to remove the reduced rates complained of in this proceeding.

2. Complainant and defendant have complied with Ordering Paragraphs 2 and 3 of Decision No. 92640.

Conclusions of Law

1. The issues raised in this complaint are now moot.

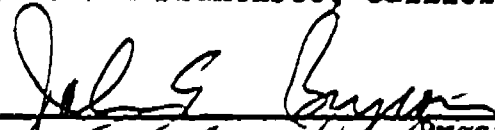
2. The complaint should be dismissed without prejudice.


O R D E R

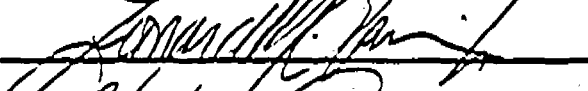
IT IS ORDERED that the complaint in Case No. 10924 is dismissed without prejudice.


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


Dated MAY 5 1981, at San Francisco, California.



President







Commissioners