

JAN 24 1997

Decision 97-01-040 January 23, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations, rates and practices of Mae Newman, doing business as MAE NEWMAN, an individual and PACIFIC BUILDING PRODUCTS, INC., a California corporation as Shipper Respondent,

Respondents.

**ORIGINAL**

Investigation 94-04-005  
(Filed April 6, 1994)

**ORDER OF DISMISSAL**

This Order Instituting Investigation (OII) was issued on April 6, 1994. Settlement discussions took place. The last contact between the Commission's Staff and Respondent occurred on September 30, 1994. Staff's telephone calls have not been returned since that time. In the interim the federal government has preempted the jurisdiction of the Commission over regulation of highway property transportation (PL 103-305). The undercharges alleged in this OII took place before preemption, and have not been rendered moot. Nevertheless Staff filed a motion stating it believes it is more important to focus its enforcement efforts on consumer protection and safety issues over which the Commission retains jurisdiction than on the present matter.

We agree with the evaluation of Staff. The matter will be dismissed.

**Findings of Fact**

1. This OII was issued on April 6, 1994.
2. Since the time of issuance the Commission's jurisdiction over the highway transportation of property has been preempted by federal law.
3. Staff's calls to Respondent have not been returned since September 30, 1994.
4. Staff has moved to dismiss this OII, stating that it believes its time can be more productively spent pursuing current customer and safety issues, rather than continuing this proceeding.

**Conclusions of Law**

1. Since the violations in question took place prior to the effective date of the federal preemption, this Commission has jurisdiction to pursue inquiry into these violations.

2. We agree with Staff that its time can be better utilized than by pursuing the violations in question.
3. Staff's motion to dismiss should be granted.

**O R D E R**

**IT IS ORDERED** that this matter be dismissed.

This order is effective today.

Dated January 23, 1997, at San Francisco, California.

**P. GREGORY CONLON**  
President  
**JESSIE J. KNIGHT, JR.**  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
**RICHARD A. BILAS**  
Commissioners