

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution CE 2 - 92  
Transportation Division  
Page 1 of 4

R E S O L U T I O N

RESOLUTION INCREASING THE AMOUNT OF FINES THAT THE  
TRANSPORTATION DIVISION STAFF MAY IMPOSE UNDER THE  
CITATION FORFEITURE PROCEDURE

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BACKGROUND

On March 12, 1968, the Commission established the informal citation forfeiture procedure ("procedure") as an inexpensive and efficient means to dispose of certain forms of transportation rate violations by motor vehicle carriers. The procedure was extended on February 10, 1970 to highway carriers. Under the procedure a carrier is given the option of contesting the charges and requesting a formal hearing or not contesting the charges and paying a fine. If the carrier chooses not to contest a charge and pay the fine no further proceeding is required. If the carrier challenges the charge, due process is afforded by permitting the carrier an opportunity to be heard in a formal proceeding.

The Commission, as set forth below, has, from time to time, expanded the use of the procedure to include new statutory requirements imposed on highway carriers. The informal citation forfeiture procedure originally authorized the staff to impose fines not exceeding \$2,000. The fine level was increased on September 19, 1983 to \$5,000, and up to \$10,000 on November 5, 1986, for second and succeeding offenses, and violations of the Public Utilities Code and/or Commission orders, decisions, directions, demands, requirements, rules or regulations.

HISTORY OF THE INFORMAL CITATION FORFEITURE PROCEDURE.

The history of the informal citation forfeiture procedure as set forth below, details the expansion of the program to include

numerous carrier violations as well as increases in the maximum fine levied under the program. The history is as follows:

On November 21, 1984, the Commission, by Resolution CE 11-84, expanded the procedure to include violations committed by charter-party carriers of passengers by imposing fines up to \$5,000. On January 8, 1986, the Commission, by Resolution CE 1-86, expanded the procedure to include violations committed by passenger stage carriers and motor transportation brokers, and authorized the staff to impose fines up to \$5,000. By Resolution CE 11-86, the Commission, on November 5, 1986, again expanded the program to include violations by highway common carriers, cement carriers and household goods carriers by imposing fines up to the statutory maximum and to include violations by highway permit carriers by imposing fines not exceeding \$10,000. On September 17, 1985, the Commission, by Resolution CE 9-86, expanded the procedure to include violations by carriers subject to the general freight regulatory program adopted in Decision 86-04-045 and authorized the staff to impose punitive fines up to \$5,000. Resolution CE 9-86 was amended on November 5, 1986 by Resolution CE 11-86 to increase the maximum fine that may be imposed on highway common carriers and highway contract carriers up to \$10,000. Again, on April 8, 1987, by Resolution CE 4-87, the procedure was expanded to include violations of licensing requirements of the Highway Carriers' Act, the Household Goods Carriers Act and the Charter-Party Carriers' Act. Finally on September 25, 1990, by Resolution CE 10-90, the Commission expanded the procedure to include violations by household goods carriers and charter-party carriers of passengers operating without valid permits or certificates and authorized the staff to impose fines up to \$5,000 per violation up to a maximum of \$10,000 for multiple violations by a single offender.

The program was also expanded to include safety violations. For instance, Assembly Bill 842, Chapter 927, Statutes 1991, amended Public Utilities Code sections 1033.7, 1070.5, 3774.5, 5285.5 and 5378.5 by mandating the Commission, after a hearing, to revoke the following classes of carriers' certificate and/or permits, or operating authority or impose a civil penalty of not less than \$1,000, nor more than \$5,000, for each day a passenger stage carrier, highway common carrier, cement carrier, highway carrier, household goods carrier, or charter-party carrier of passengers continue to operate after the carrier's certificate or permit has been suspended by the Commission on recommendation from the California Highway Patrol for consistent failure to comply with safety regulations or enroll in the pull notice system.

The program has also been instituted as an alternative to revocation or suspension of a carrier's operating authority. Assembly Bill 2680, Chapter 1715, Statutes 1984 amended Public Utilities Code section 5378 and Assembly Bill 2484, Chapter 1369, Statutes 1985, amended Public Utilities Code sections 1033.5 to authorize the Commission to impose a fine not exceeding \$5,000 on

passenger stage corporations and charter-party carriers of passengers, as an alternative to suspension, revocation, alteration or amendment of a certificate, operating right, or permit, for violation(s) of the Public Utilities Code and/or Commission orders, decisions, resolutions, directives, demands, rules and/or regulations.

As set forth above, most violations of the procedure are subject to fine limitations in the amount of \$5,000 or \$10,000. However, other violations are subject to a higher maximum fine level. For instance, Assembly Bill 1317, Chapter 378, Statutes 1987, amended Public Utilities Code section 5285 to authorize the Commission to increase the maximum fine to \$20,000 on household goods carriers as an alternative to suspension, revocation, alteration or amendment of a permit or permits for the filing of a false revenue and fees report or for violation(s) of the Public Utilities Code and/or Commission orders, decisions, rules or regulations. Assembly Bill 1317, Chapter 378, Statutes 1987, amended Public Utilities Code section 1070 to authorize the Commission to increase the maximum fine to \$20,000 on highway common carriers and cement carriers as an alternative to suspension, revocation, alteration or amendment of a certificate, for good cause shown. Finally, Assembly Bill 342, Chapter 927, Statutes 1991, amended Public Utilities Code section 3774 to authorize the Commission to increase the maximum fine to \$20,000 on any highway carrier, as an alternative to suspension, cancellation or revocation of a permit or permits for the filing of a false revenue and fees report or for violation(s) of the Public Utilities Code and/or Commission orders, decisions, direction, demand, requirements, rules or regulations.

Additionally, Public Utilities Code sections 2108, 3805, 5315 and 5415 permit the Commission, in the case of continuing violations of the Public Utilities Code or any order, decision, decree, rule, direction, demand, or requirement of the Commission, to find that each day's continuance of the violation is a separate and distinct offense. Accordingly, the program seeks to include within it, continuing violations of Commission orders, decisions, rules, requirements or other decrees or relevant sections of the Public Utilities Code subject to the procedure, up to the maximum fine limitation imposed by the program.

#### CONCLUSION.

The informal citation forfeiture program has been highly successful in disposing of violations committed by highway carriers without the necessity and cost involved in formal proceedings. Accordingly, by this Resolution, the Commission shall expand the informal citation forfeiture procedure so that the maximum fine to be imposed under the program for violations subject to the procedure shall not exceed \$20,000 and to include continuing violations where the total fine does not exceed \$20,000.

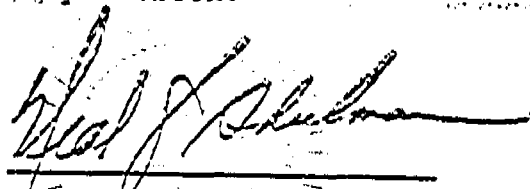
THEREFORE, IT IS ORDERED that:

1. The Transportation Division staff is authorized to increase to \$20,000 the maximum amount of fines (including fines authorized for continuing violations where each day's continuance is a separate and distinct offense), that may be levied under the informal citation forfeiture procedure, against passenger stage corporations, charter party carriers, highway common carriers, highway permit carriers, cement carriers and household goods carriers for violation(s) of the Public Utilities Code and/or Commission orders, decisions, resolutions, directives, demands, rules and/or regulations.

2. In cases consisting of flagrant, continuing violations where fines in excess of \$20,000 or other sanctions would be recommended, the informal citation forfeiture procedure shall not be utilized and the Transportation Division staff shall prepare a formal Order Instituting Investigation or Order To Show Cause.

I hereby certify that the foregoing Resolution was duly introduced, passed and adopted at a regular meeting of the Public Utilities Commission of the State of California, held on  
JUL 0 1 1992

The following Commissioners voting favorably thereon:

  
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Executive Director

DANIEL Wm. FESSLER  
President  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
Commissioners