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90-0610743

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EX-7

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

PUBLIC UTILITIES COMMISSION

JUN 20 1990

Investigation on the Commission's own motion into the cancellation of shipper specific rates in Viking Freight System, Inc. tariffs 254, 255 and 675 and order to show cause why such rates should not be cancelled.

SAN FRANCISCO OFFICE

No. 90 06 034

ORIGINAL

ORDER INSTITUTING INVESTIGATION

Viking Freight System, Inc. (Viking) filed Tariffs 254, 255 and 675 on March 28, April 11 and April 13, 1990 respectively, which contain minimum charges and distance commodity rates for shipments originating from specified nine digit zip codes. The use of such zip codes may warrant cancellation of the tariffs because they apply to a very restrictive geographic area and will in some instances apply to a specific shipper (i.e. a particular building or building floor). The Postal Service's "California ZIP+4 State Directory," 1987 edition, explains on page 10: "The first two digits of the '+4' denote a delivery 'sector,' which may be several blocks or a group of streets, several office buildings or a small geographic area. The last two digits denote a delivery 'segment,' which might be one floor of an office building, one side of a street, a firm, a post office box or group of boxes, or other specific geographic locations."

On February 7, 1990, the Commission issued Decision 90-02-021, modifying Decision 89-10-039, which required the elimination of shipper-specific rates in common carrier tariffs. Rule 5.3 of General Order 147-B states, "Common carrier tariffs shall not be designed to be shipper specific."

Decision 90-02-021 said:

"It is our goal to prevent discrimination ...[by]... common carriers. We will do so in part by requiring common carriers to hold

themselves out to serve the public. We will specifically disallow tariffs written to serve a single shipper, but no specific geographic limits beyond that will be imposed....We will address discrimination allegations as they arise, and in time we will change tariff limitations if other rules become necessary." (p. 47)

. . . .

"Under this regulatory program, common carriers must hold themselves out to serve the general public by filing tariffs in accordance with PU §§ 486, 487, 488 and 493(a). All common carrier tariffs should describe accurately and fully the services offered to the public and provide the specific rate or the basis for calculating charges for the performance of those services, and show all related classifications, rules and practices....All discounts shall be identified along with the qualifying criteria. We will enforce the PU Code prohibitions against common carrier tariffs which are shipper specific." (pp. 80-81)

Viking is the largest full service common carrier operating in California that transports general commodities. One of the cornerstones of common carriage, and why such carriers have historically been required to publish tariffs and to hold out their services in a nondiscriminatory fashion to the public, is to ensure that all similarly situated shippers face the same rates. This ensures a level playing field for the multitude of large and small businesses, and individuals, who ship goods. Accordingly, we are concerned about Viking's tariff structure. In fact, it appears that by referring to nine zip code digits the tariffs in question are designed to be shipper-specific, or that they are structured in a manner that easily facilitates unduly discriminatory shipper-specific rates. This is why we require Viking to show cause in a written showing why we should not order the tariffs in question cancelled.

If Viking's response alleges material issues of fact or demonstrates other reasons why we need to know more before acting, we will hold a hearing. However, if a hearing is held, Viking will have the burden of going forward with probative evidence to show why its tariffs are not and will not be shipper-specific and/or discriminatory.

If we determine that the tariffs in issue should be cancelled, we will not apply any sanctions against Viking or otherwise order any different rating to apply for past shipments under the tariffs. Our interest is in a prospective resolution of the issue. Finally, we will serve this order on all parties to I.88-08-046, our proceeding examining general freight transportation, and allow any of them to file replies to Viking's showing. In order for these parties to be aware of Viking's filing in this proceeding, we will order Viking to serve its written showing on all parties to I.88-08-046.

Therefore, good cause appearing,

IT IS ORDERED that:

1. An investigation on the Commission's own motion is instituted for the purpose of allowing the respondent, Viking Freight System, Inc., to show cause why it should not be ordered to cancel its Tariffs 254, 255 and 675 containing what appear to be shipper-specific rates because they are based on extremely specific zip codes as shipping points (contrary to Decision 90-02-021).

2. Viking Freight Systems, Inc. shall file an original written showing and 12 copies with the Docket Office within thirty (30) days from today's date to show cause why its tariffs containing zip codes, which appear designed to be shipper-specific, should not be cancelled. Viking shall serve a copy of its showing on all appearances in I.88-08-046. The Transportation Division may file a reply to the respondent's showing within 30 days after the respondent's brief is filed. Likewise, replies may be filed with the Docket office by other parties having an interest in this issue.

3. The Executive Director shall cause a copy of this Order Instituting Investigation to be served by certified mail on the respondent, Viking Freight Systems, Inc., and by mail on all appearances in I.88-08-046.

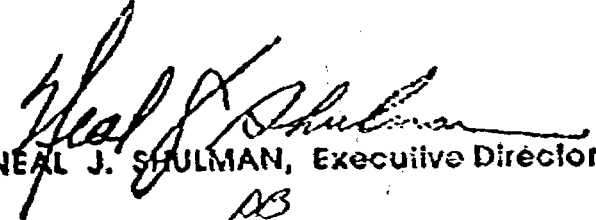
This order is effective today.

Dated June 20, 1990 at San Francisco, California.

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

President G. Mitchell Wilk,
be necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director
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