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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on  
the Commission's own Motion to  
Adopt and Issue a General Order to  
Govern the Requirements and  
Procedures Regarding Safety  
Practices for Highway Carriers  
and Household Goods Carriers.

FILED  
PUBLIC UTILITIES COMMISSION  
DECEMBER 6, 1990  
SAN FRANCISCO OFFICE  
I.90-12-006

ORIGINAL

ORDER INSTITUTING INVESTIGATION

The 1988 Legislature enacted Sections 1063.5 and 3553 of the Public Utilities Code. They were amended in 1989. These statutes establish certain safety-related requirements for applicants for new highway carrier<sup>1</sup> operating authority and for transfer of existing authority.

Sec. 1063.5. (relating to highway common carriers and cement carriers) provides:

(a) The commission shall issue or authorize the transfer of no certificate under this article except upon a showing before the commission and a finding by the commission that the applicant or proposed transferee meets all of the following requirements:

(1) Is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol governing highway safety.

(2) Is committed to observing the hours of service regulations of state and, where applicable, federal law, for all persons, whether employees or subhaulers, operating vehicles in transportation for compensation under the certificate.

(3) Has a preventive maintenance program in effect for its vehicles used in transportation for compensation that conforms to regulations of the Department of the California Highway Patrol in Title 13 of the California Code of Regulations.

<sup>1</sup> "Highway carrier" defined, Public Utilities Code Section 3511.

(4) Participates in a program to regularly check the driving records of all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation requiring a class 1 driver's license under the certificate.

(5) Has a safety education and training program in effect for all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation.

(6) Will maintain its vehicles used in transportation for compensation in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

(7) Has filed with the commission the certificate of workers' compensation insurance coverage or statement required by Section 460.5.

(8) Has provided the commission an address of an office or terminal where documents supporting the factual matters specified in the showing required by this section may be inspected by the commission and the Department of the California Highway Patrol.

(b) With respect to paragraphs (2) and (6) of subdivision (a), the commission may base a finding on a certification by the commission that an applicant has filed, with the commission, a sworn declaration of ability to comply and intent to comply.

. . .

Section 3553 extends substantially identical requirements to applicants for new and transfer highway permit carrier authority.

It appears that there may be a need for extending these or similar requirements to existing carriers.

Matters of highway carrier safety are generally the responsibility of the California Highway Patrol, pursuant to Division 14.8 of the Vehicle Code.<sup>2</sup> In addition, the Legislature has given the Commission certain authority and responsibilities in connection with highway carrier safety.

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<sup>2</sup> See Title 13, California Code of Regulations, for implementation of these statutes by the California Highway Patrol.

The Legislature stated its intention regarding Commission participation in these matters, when it enacted Sections 1063.5 and 3553:

"It is the intent of the Legislature . . . to upgrade the professional standards of corporations and persons doing business or entering into operation as highway common carriers, cement carriers, and highway permit carriers so that both highway safety and public service are improved. It is the further intent of the Legislature that the Public Utilities Commission will promptly implement the requirements of those sections, in consultation with the Department of the California Highway Patrol..."<sup>3</sup>

The Commission has implemented the safety program mandated by Sections 1063.5 and 3553 by requiring applicants for new authority or for transfer of existing authority, to prepare and file documents showing compliance.<sup>4</sup> However, the statutory program does not apply to existing carriers. Furthermore, the present program does not apply to household goods carriers, which are regulated exclusively under the Household Goods Carriers Act.<sup>5</sup>

Safety to the public is a matter of great concern to us. Therefore, in I.89-11-003, the Administrative Law Judge has proposed that we extend the current entry program to applicants for new and transfer household goods carrier authority.

In short, all applicants, both new and transfer, for operating authority as highway common carriers, cement carriers and highway permit carriers, are now included in the foregoing program, but existing carriers are not. Neither are any household goods carriers. We believe that consideration should be given to expanding the program to apply uniformly to all for-hire carriers of property by motor vehicle.

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3 Stats. 1988, Ch. 1175, Sec. 1.

4 Form TL 708-B series.

5 Public Utilities Code Section 5101, et seq. See Sec. 5112.

Therefore, it appears that an investigation should be instituted into safety-related matters pertaining to highway carriers and household goods carriers. The investigation will include issuance of such orders as may be found appropriate.

Parties wishing to participate in this proceeding may do so by appearing at the prehearing conference and filing a notice of appearance. Further orders and notices in this proceeding will be mailed only to participants and those notifying the Commission in writing of their interest in receiving further information regarding this proceeding. Such notices should be sent to the Commission's Docket Office by February 15, 1991.

**IT IS ORDERED that:**

1. An investigation is instituted on the Commission's own motion to determine whether the requirements of, or requirements similar to, Public Utilities Code Sections 1063.5 and 3553 should be extended to existing highway carriers and all household goods carriers.

2. All highway carriers and household goods carriers are named respondents in this proceeding.

3. Respondents are placed on notice that this proceeding may result in the modification of existing Commission General Orders or the adoption of new General Orders placing upon existing carriers duties and obligations similar to those set forth in Sections 1063.5 and 3553. Such duties and obligations may also be

placed upon applicants for new or transfer household goods authority (if that issue is not resolved in I.89-11-003) and upon existing household goods carriers.

4. This matter is assigned to Commissioner Ohanian and is referred to Administrative Law Judge (ALJ) O'Leary.

5. A prehearing conference (PHC) will be held at San Francisco, on March 11, 1991, at 10:00 a.m. and at Los Angeles, on March 13, 1991, at 10:00 a.m.

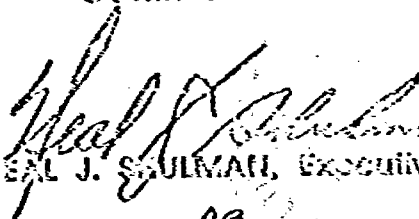
6. The Executive Director shall serve this Order Instituting Investigation by mail on all respondents.

This Order is effective today.

Dated December 6, 1990 at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

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

  
NEAL J. SAULMAN, Executive Director