

L/ddb

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations and
practices of Santa Cruz
Transportation, Inc., doing business
as Santa Cruz Airporter.

FILED
PUBLIC UTILITIES COMMISSION
DECEMBER 6, 1990
SAN FRANCISCO OFFICE
I.90-12-009

ORIGINAL

ORDER INSTITUTING INVESTIGATION
AND ORDER TO SHOW CAUSE

Santa Cruz Transportation, Inc., doing business as Santa Cruz Airporter, hereafter referred to as Santa Cruz Airporter or Respondent, is holder of a passenger stage corporation certificate under PSC 1270, and a permit and certificate to operate as a charter-party carrier of passengers under TCP 1270. Respondent's address is 224 Walnut Avenue, Santa Cruz, CA 95060. Its vehicle fleet consists of approximately ten vans and minibuses.

Public Utilities (PU) Code Section 1033.7 prescribes a procedure by which the Department of the California Highway Patrol (CHP) may recommend to the Commission that the operating authority of a passenger stage corporation be suspended for the carrier's failure to meet safety requirements. PU Code Section 5378.5 prescribes the same procedure for charter-party carriers. These sections provide that if the CHP submits a written recommendation of suspension, the Commission shall suspend the carrier's operating authority. Before submitting such a recommendation the CHP must notify the carrier in writing that (1) its safety record is unsatisfactory, furnishing a copy of any documentation or other evidence supporting the determination, (2) the unsatisfactory rating may result in a suspension or revocation of the carrier's operating authority, and (3) a review of the rating may be requested from the CHP within five days of its receipt.

Sections 1033.7 and 5378.5 provide that a carrier may appeal a suspension by requesting a hearing before the Commission, at which the carrier shall show cause why the suspension should not be continued. The sections further provide that a suspended carrier may obtain a reinspection of its terminal by filing a written request for reinstatement with the Commission with a \$125 fee. The Commission may revoke the carrier's authority at any time 90 days or more after its suspension if the Commission has not received a written recommendation for reinstatement from the CHP and the carrier has not filed a written request for a hearing with the Commission.

Under provisions of PU Code Sections 1033.5 and 5378 the Commission may suspend or revoke the operating authority of a passenger stage corporation or charter-party carrier for the carrier's consistent failure to maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Administrative Code relative to motor vehicle safety.

On May 22, 1990 the Commission issued Resolution TL-18336 directing the Executive Director to deny, suspend, or revoke the operating authority of a passenger carrier or a property carrier upon the CHP finding that the carrier's safety record is unsatisfactory. The executive Director's delegated authority to revoke operating rights under this resolution is limited to those cases where a suspended carrier has not after 90 days either been reinstated pursuant to CHP recommendation or requested a Commission hearing to appeal the suspension.

The passenger stage and charter-party authorities of Santa Cruz Airporter were suspended on Jun 11, 1990 pursuant to Section 1033.7 and 5378.5, and Resolution TL-18336. Respondent had been assigned an unsatisfactory terminal safety rating as a result of a vehicle and records inspection conducted by the CHP on May 8 and 9, 1990.

The CHP reinspected Santa Cruz Airporter's vehicles and records on July 5 and 6, 1990 in response to Respondent's filing an application for reinstatement with the Commission. The CHP

again assigned Santa Cruz Airporter's terminal an unsatisfactory rating. Another application for reinstatement resulted in a second reinspection on July 20, 1990, at which time the CHP assigned Respondent a "conditional" safety rating. Respondent's operating authorities were thereafter reinstated with CHP approval effective July 23, 1990.

On October 16, 1990, R. P. Rengstorff, Chief of the CHP's Enforcement Services Division, wrote to the Director of the Commission's Transportation Division advising that an inspection of Respondent's terminal was performed on various days in September 1990 in response to allegations from drivers and passengers that Respondent was operating unsafe vehicles. The inspection resulted in an unsatisfactory terminal rating, the third such rating received by Respondent in 1990. Chief Rengstorff recommended that the operating authorities of Santa Cruz Airporter be suspended and that steps be taken to revoke the authorities. Respondent's authorities were suspended on October 19, 1990. A copy of Chief Rengstorff's memorandum of October 16, 1990 to William R. Schulte is attached as Attachment 1.

After the October 19, 1990 suspension, Respondent filed an application for reinstatement with the Commission. This caused the CHP to conduct another terminal inspection on November 2, 1990. By memorandum dated November 20, 1990, Chief Rengstorff advised that Respondent's terminal was still rated unsatisfactory and that the suspension should continue. Moreover, he reiterated the prior recommendation that all of Santa Cruz Airporter's authorities be revoked. A copy of Chief Rengstorff's memorandum to William R. Schulte of November 20, 1990 and is attached as Attachment 2.

After the CHP assigned an unsatisfactory rating on November 2, 1990, Respondent filed another request for reinstatement. The CHP has not yet performed a terminal inspection in response to this application. Respondent's operating authorities remain suspended.

PU Code Section 768 provides that the CHP shall have primary responsibility for regulating the safety of operations of

passenger stage corporations, highway common carriers, and other motor carriers. Pursuant to this section, the Commission is directed to cooperate with the CHP to ensure safe operations of such carriers.

The Commission has received a recommendation from the CHP that all of the operating authorities held by Santa Cruz Airporter be revoked. The CHP is of the opinion that Respondent has demonstrated a consistent failure to comply with motor carrier safety requirements and that the unsafe mechanical condition of Respondent's vehicles presents a imminent danger to the public and to Santa Cruz Airporter's employees.

IT IS ORDERED that an investigation on the Commission's own motion is hereby instituted into the operations and practices of Santa Cruz Transportation, Inc., dba Santa Cruz Airporter. A public hearing on this matter shall be expeditiously scheduled (with the date and time announced by separate notice) and held before an Administrative Law Judge, in the Commission's Courtroom at 505 Van Ness Avenue, San Francisco, at which time Respondent may appear and show cause why its passenger stage corporation certificate and charter-party carrier permit and certificate should not be revoked pursuant to PU Code Section 1033.5 and 5378. Staff, if it elects to do so, may present additional evidence, either by testimony or through documentation, bearing on Respondent's safety of operations.

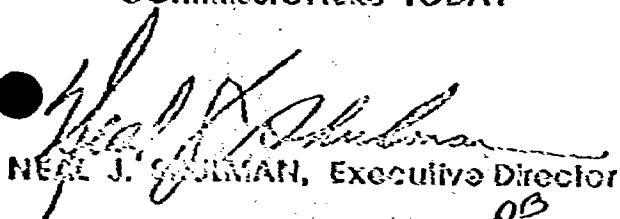
The Executive Director is directed to cause a certified copy of this order to be personally served upon Respondent Santa Cruz Airporter.

This order is effective today.

Dated December 6, 1990, at San Francisco, California.

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

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


NEAL J. SPELMAN, Executive Director

Commissioner Stanley W. Hulett,
being necessarily absent, did not
participate.

Memorandum**ATTACHMENT A**

Date: October 16, 1990

To: Mr. William R. Schulte, Director
Transportation Division
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Enforcement Services Division

File No.: 60.A7333.A9181.3274C

Subject: RECOMMENDATION FOR SUSPENSION, TCP 1270 B & P AND PSC 1270

Our Coastal Division Motor Carrier Safety Unit conducted a terminal inspection of Santa Cruz Transportation Inc., between September 7 and 25, 1990. This inspection was in response to driver and passenger complaints that the carrier was operating unsafe buses.

The inspection included eight vehicles, revealed 46 mechanical safety violations and resulted in four vehicles (50%) being placed out-of-service for imminently hazardous steering, brake, tire, exhaust, and fuel system defects. The carrier fails to comply with the Department of Motor Vehicles Pull Notice Program in Vehicle Code Section 1808.1. The carrier also fails to ensure that the drivers comply with the hours of service and record of duty status requirements of Title 13, California Code of Regulations Sections 1212 and 1213.

As a result of this inspection, a third unsatisfactory terminal rating was assigned and a California Highway Patrol Notice to Carrier (CHP 345) was issued. The terminal inspection report and the CHP 345 were issued to and signed by the carrier's representative. These documents notify the carrier of the unsatisfactory terminal rating, that an unsatisfactory rating may result in denial, suspension, or revocation of the carrier's operating authority, and that a review of the rating may be requested by the carrier within five days.

The Corporation President, Mr. Bosso, requested a rating review. Coastal Division's Motor Carrier Safety Unit Supervisor, Mr. Dave Woodé, reviewed the inspection reports with Mr. Bosso on October 3, 1990, and found the unsatisfactory rating to be valid. Mr. Bosso was advised that the assigned rating would remain in effect.

The unsafe mechanical condition of this carrier's vehicles presents an imminent danger to the public and to the carrier's employees. Three unsatisfactory ratings is clear evidence of consistent failure to comply with motor carrier safety requirements.

William R. Schulte
Page 2
October 16, 1990

This carrier is apparently unwilling or unable to comply with all laws and regulations pertinent to public safety. We therefore concur with Coastal Division and recommend suspension of TCP 1270 B & P and PSC 1270, and that subsequent steps be taken by the Commission to revoke all operating authorities issued to this carrier.


R. P. RENGSTORFF, Chief

Attachments

END OF ATTACHMENT A

MemorandumATTACHMENT B

Date: November 20, 1990

To: Mr. William R. Schulte, Director
Transportation Division
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

From: DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Enforcement Services Division

File No.: 60.A7333.A9181.3496C

Subject: RECOMMENDATION FOR CONTINUED SUSPENSION, TCP 1270 B & P

In response to your request, our Coastal Division Motor Carrier Safety Unit conducted a reinspection of Santa Cruz Transportation, Inc., TCP 1270 B & P, on November 2, 1990.

The inspection included six vehicles, revealed 17 mechanical safety violations, and resulted in two vehicles being placed out-of-service for imminently hazardous brake system defects. The condition of the carrier's vehicles indicates that the preventive maintenance program is still inadequate and fails to comply with the requirements specified in Title 13, California Code of Regulations (13 CCR) Section 1232(a).

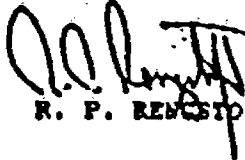
The carrier fails to carefully examine and correct defects recorded on the drivers' daily vehicle condition reports as specified in 13 CCR 1234(e), and does not document all repairs conducted as required by 13 CCR 1234(f). The carrier's records indicate that vehicles number 226 and 301 were operated after the carrier's operating authority was suspended.

As a result of this inspection, a fourth unsatisfactory terminal rating was assigned and a California Highway Patrol Notice to Carrier (CHP 345) was issued. These documents notify the carrier of the unsatisfactory terminal rating, that an unsatisfactory rating may result in denial, suspension, or revocation of the carrier's operating authority, and that a review of the rating may be requested by the carrier within five days. The terminal inspection report and CHP 345 were reviewed, signed, and received by Mr. James J. Bosso, corporation president.

The unsafe mechanical condition of this carrier's vehicles presents an imminent danger to the public and to the carrier's employees, and four consecutive unsatisfactory ratings clearly evidence consistent failure of the carrier to comply with motor carrier safety requirements. This carrier does

Mr. William R. Schulte
Page 2
November 20, 1990

not meet this Department's safety requirements and is apparently unwilling or unable to comply with all laws and regulations pertinent to public safety. We therefore recommend continued suspension of TCP 1270 B & P, and request that the Commission take steps to revoke all operating authorities held by this carrier.



R. P. REMSTORFF, Chief

Attachment

END OF ATTACHMENT B