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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the operations and)
practices of Berlin Ray Wolfe, an)
individual doing business as Beep's)
Trucking,)
Respondent.)

ORIGINAL
FILED
PUBLIC UTILITIES COMMISSION
JUNE 5, 1991
SAN FRANCISCO OFFICE
I.91-06-003

ORDER INSTITUTING INVESTIGATION

Berlin Ray Wolfe dba Beep's Trucking (Respondent Carrier) (Beeps) whose mailing address is Rt. 2 Box 174 AB Lozoya Way, Oakley, California 94561 is engaged in the business of transporting property over the public highways of this state for compensation. Beeps operates pursuant to a highway common carrier certificate and a highway contract carrier permit both issued January 31, 1980, and a dump truck carrier permit issued August 12, 1976. (T-115,134)

Public Utilities Code (P.U. Code) Section 3774.5 prescribes a procedure by which the Department of the California Highway Patrol (CHP) may recommend to the Commission that the operating authority of highway permit carriers be suspended for the carrier's failure to meet safety requirements. This section provides 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.

Section 3774.5 provides 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. This section further provides 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 hearing with the Commission.

Under the provisions of PU Code Section 3774.5 the Commission may suspend or revoke the operating authority of highway carriers for consistent failure to maintain vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations on vehicle-carrier safety contained in Title 13 of the California Administrative Code.

The highway common carrier certificate, highway contract carrier permit and dump truck carrier permit authorities of Beep's Trucking were suspended on December 12, 1990 pursuant to Sections 1070.5, 3774.5, and Resolution TL-18336. Respondent had been initially assigned an unsatisfactory terminal safety rating as a result of a vehicle and records inspection conducted by the CHP on November 5, 1990. This inspection covered four vehicles and resulted in two vehicles being placed out of service for imminently hazardous brake systems defects.

On December 7, 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 November 5, 1990. The inspection resulted in an unsatisfactory terminal rating. Chief Rengstorff recommended that the operating authorities of Beep's Trucking be suspended. Respondent's authorities were suspended on December 12, 1990.

As a result of the December 12, 1990 suspension, Respondent filed an application for reinstatement with the Commission. This caused the CHP to conduct another terminal

inspection on January 4, 1991. By memorandum dated January 7, 1991, Commander L. F. Rollin advised that Respondent's terminal was then satisfactory and that the suspension should be lifted. Respondent's authorities were reinstated January 8, 1991.

A staff investigation disclosed that Respondent Beep's had continued to conduct operations as a dump truck carrier during the period December 12, 1990 through January 8, 1991 when its operating authorities were suspended for failure to meet California Highway Patrol safety requirements.

It appears that respondent Beep's Trucking may have conducted operations as a dump truck carrier over the public highways of this state during a period of operating authority suspension and that the Respondent carrier may have violated Sections 3774.5 and 3775 of the Public Utilities Code.

Good cause appearing; therefore,

IT IS ORDERED that an investigation on the Commission's own motion is instituted into the operations and practices of Beep's Trucking for the purpose of determining:

1. Whether respondent Beep's Trucking has violated Sections 3774.5 and 3775 of the Public Utilities Code by conducting operations after his operating authority was suspended for failure to meet California Highway Patrol Safety Requirements.

2. Whether any or all or respondent carrier's operating authority should be cancelled, revoked, or suspended, or in the alternative, a fine of up to \$20,000 for each offense be imposed pursuant to Sections 3774 and 3805 of the Public Utilities Code.

3. Whether respondent Beep's Trucking should be ordered to cease and desist from any and all unlawful operations and practices.

4. Whether any other orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

A public hearing in this matter shall be held before an Administrative Law Judge of the Commission at a time and place to

be determined, at which time and place all interested parties may appear and be heard.

The Executive Director is directed to cause a certified copy of this order to be served by mail on counsel for the Respondent: R. Paul Driscoll, 1034 Court Street, Martinez, California 94553. The Executive Director shall also cause a certified copy of this order to be served personally forthwith on respondent Berlin Ray Wolfe, doing business as Beep's Trucking.

This order is effective today.

Dated June 5, 1991, at San Francisco, California.

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

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


NEAL J. SPAULMAN, Executive Director