

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

October 31, 2002

Agenda ID #1318

TO: PARTIES OF RECORD IN CASE 94-05-036

This is the draft decision of Administrative Law Judge (ALJ) Weismehl will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL A. BROWN
Carol A. Brown, Interim Chief
Administrative Law Judge

CAB:tcg

Attachment

Decision **DRAFT DECISION OF ALJ WEISMEHL** (Mailed 10/31/2002)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Wilson's The Leather Experts,

Complainant,

vs.

Brake-Delivery Service-Meier Transfer Service
For Violation of PU Code 451 and 453 By Seeking
to Assess Unlawful Undercharges,

Defendant.

Case 94-05-036
(Filed May 23, 1994)

O P I N I O N

Summary

Complaint of Wilson's The Leather Experts against Brake-Delivery Service-Meier Transfer Service for violation of Pub. Util. Code §§ 451 and 453 for seeking to assess unlawful undercharges is dismissed for lack of jurisdiction.

Discussion

On May 23, 1994, Wilson's The Leather Experts filed a complaint against Brake-Delivery Service-Meier Transfer Service for violation of Pub. Util. Code §§ 451 and 453 for seeking to assess unlawful undercharges. Since the filing of this complaint, the Legislature enacted AB 1683 (Stats. 1996, ch. 1042). AB 1683 repealed the Highways Carriers' Act (Pub. Util. Code § 3501 et seq.), thereby removing the statutory jurisdiction of this Commission over the transportation of

property over the public highways in California, with the exception of household goods movers. Jurisdiction over motor carriers of property, other than household goods movers, now rests with the California Department of Motor Vehicles and the California Highway Patrol. (See Motor Carriers of Property Permit Act, Vehicle Code Section 34600 et. seq.) In light of the fact that this Commission lacks jurisdiction over motor carriers of property, the complaint should be dismissed for lack of jurisdiction.

In addition, on October 18, 2002, the assigned Administrative Law Judge (ALJ) issued a ruling directing parties to address whether the proceeding needed to remain open. No responses were filed.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure.

Assignment of Proceeding

Geoffrey Brown is the Assigned Commissioner and Philip Weismehl is the assigned ALJ in this proceeding.

Findings of Fact

1. Brake-Delivery Service-Meier Transfer Service once held authority from this Commission to operate as a motor carrier of property.
2. This Commission regulated motor carriers of property until the passage of AB 1683, which became effective September 29, 1996.
3. AB 1683 revoked this Commission's jurisdiction over highway motor carriers of property, other than household goods movers.
4. No party indicated the need for this proceeding to remain open.

Conclusions of Law

1. Case 94-05-036 should be dismissed for lack of jurisdiction.
2. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Case 94-05-036 is dismissed.
2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.