

*Filed Apr. 18-1957  
11:30 PM  
PSC 25*

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of Rules and Regula- )  
tions Covering C.O.D. Service by ) MC-1027  
Common Motor Carriers )

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Edward T. Kaveny, Secretary of the Public Service Commission of Wisconsin, do hereby certify that I have compared the annexed copy of the decision with the original decision of the Public Service Commission of Wisconsin in the above-entitled matter, now on file in the office of said Commission, and that the same is a true copy of such original decision and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Commission at its office in the City of Madison, this *17th* day of *April*, A.D. 1957

*Edward T. Kaveny*  
Secretary

PUBLIC SERVICE COMMISSION OF WISCONSIN

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ORDER AMENDING RULE

On February 6, 1956 the Commission entered an order in this docket proposing an amendment to present PSC 25.02, Wisconsin Administrative Code, relating to the placing of moneys collected by common motor carriers on C.O.D. shipments in a trust fund.

Pursuant to due publication in the Register (February, 1956), a hearing upon said proposed rule was requested on March 8, 1956 by Wisconsin Association of Common Carrier Truck Operators.

Upon due notice hearings were held at Madison on April 17, 1956, June 12, 1956, September 21, 1956, and November 9, 1956 before Examiner Samuel Bryan.

Appearances:

Wisconsin Association of Common Carrier  
Truck Operators by

A. J. Bieberstein, attorney  
Glenn W. Stephens, attorney  
John L. Bruemmer, attorney,  
all of Madison

As Interest May Appear: (November 9, 1956 hearing)

Motor Transport Company by

A. F. Nash, vice president  
Milwaukee

Northern Transportation Company by

Milton Homuth, general manager  
Green Bay

Appearances: (Continued)

As Interest May Appear: (Continued)

Neuendorf Transportation Company by

William J. Atkins, traffic manager  
Madison

In Opposition:

Gateway Transportation Company by

Joseph E. Ludden, attorney  
La Crosse

Of the Commission Staff:

Helmar A. Lewis, counsel  
A. W. Larson, chief, transportation department  
J. H. Justesen, supervisor, motor carrier section

Findings of Fact

THE COMMISSION FINDS:

The handling of C.O.D. (Cash on delivery) shipments by common motor carriers is a voluntary service which has not been regarded as a part of the common motor carrier obligation of service. (36 ALR 464) If a carrier desires to offer a C.O.D. service, it may do so by filing an appropriate tariff and complying with the outstanding rules with respect thereto. Several common motor carriers have never offered such a service. Some have withdrawn from such service by canceling the related tariff item.

The purpose of the proposed rule change is to protect those entitled to receive the C.O.D. money collected for them by the carrier and, in the case of joint line shipments, to protect the carriers other than the delivering carrier from adverse effects due to mishandling of C.O.D. money collected by the delivering carrier.

The proposed amendment to PSC 25.02 which would require the maintenance of a fiduciary trust fund would impose

conditions which, as a practical matter, few, if any of the carriers could or would meet and might, therefore, result in substantial abandonment of C.O.D. service by the carriers which would not improve common motor carrier service to the public. A number of the carriers are domiciled in communities which do not have banks with fiduciary powers. Banks with fiduciary powers would be reluctant to handle such accounts, which are relatively small, and if they did so, would impose charges which the carriers could not afford to pay. C.O.D. service affords some convenience to shippers and it would be against the public interest to adopt restrictive measures which would destroy the availability of such service. Even though the proposed rules had been adopted and enforced, they would not have been infallible in preventing the type of irregular handling and misuse of C.O.D. funds which primarily gave rise to this investigation. Much of the difficulty in the past has resulted from actions taken between the time of delivery of the shipment when the C.O.D. money first comes into the carrier's possession and the time of depositing the money in a C.O.D. account at a bank. The proposed rules would not correct such misuse of the funds.

The situation, furthermore, does not warrant the requirement of a surety bond. The Wisconsin Association of Common Carrier Truck Operators, which during the hearings, suggested consideration of a surety bond plan, has advised that its membership is not willing to adopt the idea of a group bond. Some of the smaller carriers which are now handling C.O.D. shipments without complaint might be unable to secure a surety bond at a reasonable cost and might thus be forced to discontinue the service.

During the course of the hearings, various suggestions were made and discussed which would tend to make the existing regulation of C.O.D. service more efficient. While these suggestions were not specifically included in the proposed regulations, they may properly be considered as directly related thereto. Among such suggestions was one to require the deposit of C.O.D. funds under the existing rule in a bank located in Wisconsin, with a provision for exceptions in special cases within the discretion of the Commission. Several carriers now have their principal offices in other states; and where such offices are in distant cities, any check of records or bank deposits would entail time and expense on the part of Commission personnel. Exceptions might relate to borderline cities such as Ironwood, Michigan, or Dubuque, Iowa, for example, where such problems do not arise. Such a requirement coupled with another suggested plan of having the carriers authorize their chosen bank to open the carrier's C.O.D. bank account to the inspection of Commission personnel would bring the C.O.D. banking practices of each carrier under periodic and efficient observation by the Commission. Further supplementing these measures would be a requirement that each carrier should keep and make available to Commission inspection a C.O.D. register comparable to that required as to interstate commerce by the Interstate Commerce Commission. At the informal suggestion of the Commission, practically all carriers are now keeping such a register. In special instances, where a carrier is permitted to maintain its C.O.D. account in an out-of-state bank, a periodic filing of a copy of such register would serve a useful purpose. The present rule, with the above-described additions, will under present conditions reasonably protect the public interest in the handling of C.O.D. accounts by common motor carriers.

## Conclusion of Law

### THE COMMISSION CONCLUDES:

That it has authority pursuant to the provisions of chapter 194, Wisconsin Statutes, to amend its rule PSC 25.02, Wisconsin Administrative Code, as set forth in the order herein pursuant to the above findings of fact.

### Order

### THE COMMISSION THEREFORE ORDERS:

1. That section PSC 25.02, Wisconsin Administrative Code, be and the same is hereby amended and adopted to read as follows:

PSC 25.02 Special C.O.D. fund. Every common motor carrier shall expeditiously deposit all moneys collected for others on C.O.D. shipments, except the charges for transportation service and for collecting and remitting money, in a separate special C.O.D. fund account in a bank in Wisconsin except where an out-of-state bank is permitted as stated below, which fund shall be used for no purpose except payment of money therein to the owners thereof. No money received on account of a C.O.D. shipment, except the charges for transportation service and for collecting and remitting money, shall be commingled with any other funds or used for any other purpose than as herein prescribed. The commission may in special cases and for good cause shown authorize the deposit of such fund in an out-of-state bank, subject to such conditions as it deems proper. Each carrier which handles C.O.D. shipments shall furnish to the commission a written continuing consent that the commission's authorized employes may inspect said account at the bank of deposit. Each carrier which handles C.O.D. shipments shall establish, keep currently posted, and make available to the commission and its authorized employes a C.O.D. register which shall contain the following information:

- (1) Number and date of freight bill
- (2) Name and address of shipper or other person designated as payee
- (3) Name and address of consignee
- (4) Date shipment delivered
- (5) Amount of C.O.D.
- (6) Date collected by delivering carrier
- (7) Date remitted to payee
- (8) Check number or other identification of remittance to payee.

2. That certified copies of section PSC 25.02, Wisconsin Administrative Code, as herein amended and adopted be sent to the secretary of state and the revisor of statutes as required by section 227.023, Statutes.

3. That this order will become effective on the 1st day of June, 1957, pursuant to section 227.026, Statutes.

Dated at Madison, Wisconsin, this 29th day of

March 1957.

By the Commission.

Edward T. Kaveny

Secretary



**PUBLIC SERVICE COMMISSION OF WISCONSIN**

STATE OFFICE BUILDING  
MADISON 2, WISCONSIN

GEORGE P. STEINMETZ,  
CHAIRMAN  
NICHOLAS J. LESSELYOUNG,  
COMMISSIONER  
ARTHUR L. PADRUTT,  
COMMISSIONER  
EDWARD T. KAVENY, SECRETARY

April 17, 1957

FILE NO. MC-1027

Mr. James J. Burke  
Revisor of Statutes  
State Capitol  
Madison, Wisconsin

In the Matter of Rules and Regula-  
tions Covering C.O.D. Service by  
Common Motor Carriers

Dear Sir:

Pursuant to Section 227.023, Wisconsin Statutes,  
we are enclosing a certified copy of the Order of March  
29, 1957 in the above entitled matter amending and adopt-  
ing Section PSC 25.02, Wisconsin Administrative Code.

Very truly yours,

*Edward T. Kaveny*

Secretary

mcb