

ORIGINAL

Decision No. 43936

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations, )	
rates and practices of Pierce- )	Case No. 5139
Rodolph Storage Co., Ltd., a )	
corporation. )	

Harold J. McCarthy, for Field Division  
Frank Loughran, for respondent

O P I N I O N

The order instituting investigation herein recites that respondent, holder of Radial Highway Common Carrier Permit No. 38-316 and City Carrier Permit No. 38-563, appears to have failed, during the months of October and December, 1948, to record complete information on freight bills and shipping documents as prescribed by Highway Carriers' Tariff No. 4, and orders an investigation to determine: (1) whether respondent has violated Sections 10, 12(a) and 13-5/8 of the Highway Carriers' Act; (2) whether respondent's operating authority should be cancelled, revoked or suspended; (3) whether respondent should be ordered to collect undercharges from its shippers; (4) whether respondent should be ordered to cease and desist from issuing incomplete shipping documents and from collecting less than minimum rates.

The order was served upon respondent on December 2, 1949, and a public hearing was held on January 5, 1950, in San Francisco before Examiner Gregory. The matter has been submitted and it is now ready for decision.

The evidence discloses that respondent has been engaged for more than 40 years exclusively in moving used household goods.

At present it operates with five pieces of equipment and one warehouse in San Francisco. Employees consist of three office clerks, two drivers and 8 to 10 part-time helpers. Intercity movements comprise about ten per cent of respondent's total business.

During October and December 1948, respondent handled twenty-six intercity shipments. Nineteen of these shipments were summarized on a document introduced in evidence as Exhibit 1 pursuant to stipulation that the case would be confined to the information therein contained. Respondent further stipulated that the exhibit truly records the information contained on the nineteen freight bills and properly shows the information omitted from those bills. Fourteen types of omissions were shown, those of most frequent occurrence (with the number of times each occurred shown in the parenthetical number) being failure to show: commodity description of the shipment (19); name of consignee (16); point of origin (15); written confirmation of shipping instructions and rate quotations (14); rate assessed (10); charge assessed (8); weight of shipment (8); whether equipment had more or less than 70 square feet of loading area (6). The applicable minimum rates pertaining to these 19 shipments could not in any instance be determined from the information contained on the freight bills themselves.

When a representative of the field division called at respondent's offices and examined the shipping records, respondent's vice president was also asked to and did supply the information that was missing from the freight bills. From the information thus supplied the field division could and did rate all of the freight bills, and in all instances except one the minimum rates had been protected. In that case the shipment was from "Almaden 11 miles from San Jose" to "971 Lombard Street near Leavenworth" (San Francisco),

and was assessed at 169 cents per 100 pounds on a shipment of 3120 pounds. The correct rate should have been 195 cents per 100 pounds. Respondent's vice president testified the mistake was probably made in computing mileage from the unfamiliar off-route point of origin.

Between the date of the above-mentioned office visit (February 17, 1949) and the date the order of investigation was served on respondent (December 2, 1949), the carrier did nothing effective to correct its system of filling in freight bills. The field division did not call on respondent during that period. After the order was served, however, respondent conducted educational meetings with its employees and changed the form of its freight bill to include the order for service and freight bill in a single document.

The evidence shows, and respondent admits, that there were deficiencies in the data supplied on the freight bills involved. However, the information was all in respondent's office and was easily available as was shown by the fact that the field division representative secured all the missing data on the one visit. With the one exception noted (which exception was not stressed nor particularly relied upon by the field division) respondent did not violate minimum rates, and its vice president testified that the carrier had never knowingly charged below the applicable minimum rates. Moreover, this is the first time respondent has been before this Commission in a disciplinary case.

We find from the evidence that respondent herein, during the months of October and December, 1948, failed to keep shipping documents as prescribed by the Commission in Highway Carriers' Tariff No. 4, as more particularly set forth in the order instituting investigation herein, and by so doing violated Sections 10 and 13-5/8 of the Highway Carriers' Act.

While respondent's infractions of the Commission's rules and regulations appear to be serious enough to justify a short suspension of its radial permit, we have concluded, on the basis of the entire record, that outright suspension should not be invoked at this time. Instead, respondent should be given an opportunity to demonstrate that it will comply with applicable statutes and with outstanding orders of the Commission. Accordingly, the order to follow, although imposing a five-day suspension of the radial permit, will also provide that such suspension be stayed for approximately eight months, unless the Commission, within that period, reopens the proceeding and, after notice to respondent and an opportunity to be heard, for good cause deems imposition of the suspension appropriate. Otherwise, the proceeding will automatically terminate at the end of the eight-month period.

O R D E R

Public hearing having been held in the above entitled and numbered proceeding, the matter having been submitted for decision, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 38-316, held by Pierce-Rodolph Storage Co., Ltd., respondent herein, be and it is hereby suspended for a period of five (5) consecutive days; provided, however, that such suspension shall not become effective unless and until, on or before December 15, 1950, the Commission shall have reopened this proceeding for receipt of further evidence, and thereafter, upon notice to respondent and an opportunity to be heard, shall otherwise order.

(2) The Secretary is hereby directed to cause personal service of a certified copy of this decision to be made upon respondent, and this decision shall become effective upon the twentieth day after the date of such service.

Dated at San Francisco, California, this 14<sup>th</sup> day of March, 1950.

*A. B. Anderson*

*Justus J. Coe*

*Walter H. Russell*

*Harold P. Hale*

*Kenneth Patten*  
COMMISSIONERS