

Decision No. 43941**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operation, rates)
 and practices of J. F. Andrews, doing)
 business as Checker Van and Storage)
 Company and Royal Transfer Company.)

Case No. 5153

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. 1-1775 and City Carrier Permit No. 1-1776, 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 Nos. 2 and 4, and orders an investigation to determine: (1) whether respondent has violated Section 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 5, 1949, and a public hearing was held on January 6, 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 in moving used household goods and personal effects for 15 years.

His office and warehouse are presently located at 622 17th Street, Oakland, and he operates with twelve pieces of equipment and eight to ten employees. In 1948 he grossed between seventy and eighty thousand dollars, eighty per cent of which was from the intercity movement of goods.

During October and December, 1948, respondent handled forty-nine intercity shipments. Nineteen of these shipments were summarized on a document introduced in evidence as Exhibit 1 pursuant to a stipulation between counsel 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 that where it indicates there is no confirmation of shipping instructions and rate quotations, none was issued by respondent. It was also stipulated that Highway Carriers' Tariffs No. 2 and No. 4, City Carriers' Tariff No. 3 and Distance Table No. 3 were served on respondent on May 11, 1948.

Exhibit No. 1 reflects that seven different kinds of required data were either omitted from or incorrectly supplied on the freight bills involved. Those errors (with the number of times each occurred shown in parenthesis) are: incorrect commodity description of shipment (15); failure to show whether equipment had more or less than 70 square feet of loading area (6); no confirmation of shipping instructions and rate quotations (9); charges assessed on a per hour rather than a per 100-pound basis (4); charges not assessed (1); failure to show number of hours (1); failure to show weight of shipment (3).

In four of the nineteen shipments, the rate was incorrectly assessed in cents per hour instead of cents per 100 pounds. In the other fifteen shipments the minimum rates could not be determined.

from the information contained on the freight bills. All fifteen were deficient in this respect because it was not stated whether the commodities transported were new or used. Six were additionally deficient because the size of the equipment and the declared value of the shipment were not indicated. Four more were additionally deficient because either the number of hours involved or the weight of the shipment was not shown on the face of the shipping document.

The record shows, and respondent admits, that there were substantial deficiencies in the data supplied on the freight bills involved, and in addition respondent admits that in the nine instances indicated on Exhibit No. 1 no confirmation of shipping instructions and rate quotations was secured.

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' Tariffs Nos. 2 and 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.

Respondent points out, by way of mitigation, that a Commission representative frequently called at his office prior to institution of the formal investigation herein and always found his records in good condition; that during the field investigation the Commission representative gave no indication that respondent's methods of keeping records should be changed; and that he must rely on truck drivers to fill in the freight bills and secure the shippers' signatures to the confirmations of shipping instructions.

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. 1-1775, held by J. F. Andrews, doing business as Checker Van and Storage Company and Royal Transfer Company, 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 14th
day of March, 1950.

R. E. Anderson

James F. O'Connell

James H. L. ...

Harold P. ...

Permitt Patten
COMMISSIONERS