

Decision No. 48164**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the )  
 operations, rates and practices of ) Case No. 5393  
 RALPH V. YUNKER, doing business as )  
 LINDA VISTA TRANSFER. )

John Power, for the Public Utilities Commission.  
Ralph V. Yunker, in propria persona.  
James V. Williams, for Southern California Freight  
 Lines, interested party.

O P I N I O N

An investigation was instituted on the Commission's own motion on July 15, 1952, into the operations, rates and practices of Ralph V. Yunker, doing business as Linda Vista Transfer, for the purpose of determining whether he has violated Sections 3664, 3665, 3667 and 3737 of the Public Utilities Code of the State of California, more particularly to determine whether he failed to issue shipping documents in the form prescribed by this Commission, failed to assess or collect the prescribed tariff rates, or otherwise failed to comply with the applicable tariff rules and regulations in the performance of transportation services for A. H. Benson and Glen Barker, both of San Diego, California, said services being the transportation of household goods from 3560 Granada Street, in the City of San Diego, to Route 2, Box 311, Escondido, California, for A. H. Benson, and the transportation of household goods from Route 2, Box 311, Escondido, to 3560 Granada Street, San Diego, for Glen Barker.

A public hearing was held at San Diego before Examiner Chiesa on September 25, 1952. Oral and documentary evidence having been adduced and considered, the Commission finds and concludes as follows:

Finding of Facts

1. That at all times pertinent to this proceeding said Ralph V. Yunker was operating as a radial highway common carrier, city carrier and household goods carrier pursuant to Permits Nos. 37-1519, 37-2766 and 37-4144, respectively, granted him by this Commission.

2. That Ralph V. Yunker had knowledge of the provisions of the applicable tariffs, being City Carriers' Tariff No. 3-A and Highway Carriers' Tariff No. 4-A, having been served by this Commission with all of its decisions pertaining to the said two tariffs and also the decisions pertaining to distance tables applicable to the said tariffs.

3. That on January 18, 1952, Ralph V. Yunker transported a shipment of household goods for A. H. Benson, from 3560 Granada Street, San Diego, to Route 2, Box 311, Escondido, California, a distance of 37 miles, and that on the same day and as part of the return trip, said Ralph V. Yunker transported a shipment of household goods for Glen Barker from Route 2, Box 311, Escondido, California, to 3560 Granada Street, San Diego, California, being a similar distance of 37 miles.

4. That the rate or charges prescribed by this Commission in its City Carriers' Tariff No. 3-A and Highway Carriers' Tariff No. 4-A to be assessed for the said two shipments are as set forth in Item No. 420 of said tariffs, being the distance rates in cents per hundred pounds for a mileage of over 35 miles but not over 40 miles.

5. That Ralph V. Yunker failed to assess or charge the said prescribed rates, but instead charged an hourly rate upon a billing showing that the shipments were to be transported between

the said San Diego address, 3560 Granada Street, and Route 2, Box 311, Poway, California, instead of Route 2, Box 311, Escondido, California; Poway, California, being a distance of less than 30 miles, to wit, approximately 27 miles from San Diego.

6. That Ralph V. Yunker failed to weigh either of said shipments or obtain a weighmaster's certificate as required by Item No. 210 of said tariffs, and therefore the proper minimum charges are not ascertainable.

7. That Ralph V. Yunker charged and was paid for each of said shipments on the basis of the hourly rates prescribed in Item No. 400 of said tariffs, to wit, the sum of \$52.50 for 7½ hours at \$7 per hour plus \$1.58 federal transportation tax, which rates were not applicable for the said shipments between San Diego and Escondido.

8. That the period required to consummate both shipments was approximately 7½ hours, which was the number of hours that were charged to each of said shippers, whereas had the hourly rates been applicable the number of hours chargeable to each shipper would not have been in excess of four hours.

9. That the shipping document issued by Ralph V. Yunker to each of said shippers did not conform to the provisions of Item No. 230 of said tariffs in that the true points of origin and/or destination were not shown, the shipments were not adequately described, nor was the weight of each shipment shown.

The evidence shows that A. H. Benson was partially responsible for the showing of a false point of origin and/or destination shown on the shipping document in that his original negotiations with Ralph V. Yunker were based on shipments to be transported between San Diego and Poway. However, Yunker was apprised that the true destination point was Escondido instead of

Poway before his services were completed, and he should have then issued a corrected shipping document and made arrangements to weigh the shipments and assess the proper rates.

Conclusions of Law

1. That the applicable rates for said shipments are those for transportation in excess of 30 miles, not wholly within the same metropolitan area as provided in Item 130, and should have been computed upon the basis of the "Distance Rates in Cents per 100 Pounds" as set forth in Item No. 420 of City Carriers' Tariff No. 3-A and Highway Carriers' Tariff No. 4-A.

2. That Ralph V. Yunker violated the provisions of City Carriers' Tariff No. 3-A and Highway Carriers' Tariff No. 4-A, particularly Items Nos. 130, 180, 210, 230 and 420, and Sections 3665, 3667, 3737, 5197 and 5198 of the Public Utilities Code of the State of California.

O R D E R

A public hearing having been held in the above-entitled proceeding, the matter having been submitted, the Commission being fully advised in the premises and having made its findings of fact and conclusions of law hereinabove set forth,

IT IS ORDERED:

(1) That Radial Highway Common Carrier's Permit No. 37-1519, City Carrier's Permit No. 37-2766, and Household Goods Carrier's Permit No. 37-4144, issued to Ralph V. Yunker, doing business as Linda Vista Transfer, be, and the same are, hereby suspended for a period of three (3) days commencing on the effective date of this order.

(2) That Ralph V. Yunker shall forthwith cease and desist from assessing or collecting less than the applicable minimum rates and charges prescribed by the Commission's tariffs for any transportation which he is authorized to perform, and he shall hereafter issue shipping documents in the manner required by the said tariffs.

IT IS FURTHER ORDERED that the Secretary of this Commission cause service of this order to be made upon said respondent, Ralph V. Yunker.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco California, this 13th day of January, 1953.

R. G. Anderson  
President

Harold P. Hula

Frederick F. Fetter

John E. V. Mitchell

Commissioners

Commissioner Justus F. Craomer, being necessarily absent, did not participate in the disposition of this proceeding.