

ORIGINALDecision No. 54319

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
THOMAS B. WATT, JR., and WALTER J.)	
NELSON, doing business as JOHNSON'S)	Application No. 36562
TRUCKING SERVICE, to deviate from)	
established rates.)	

OPINION AND ORDER ON PETITION FOR MODIFICATION

In its Decision No. 51347 the Commission found that Thomas B. Watt, Jr., and Walter J. Nelson, doing business as Johnson's Trucking Service charged and collected a rate of 16½ cents per 100 pounds for the transportation of lumber and forest products from Indian Creek to Hornbrook, California, for the account of Willamette Builders Supply Company instead of the applicable minimum rate of 22 cents per 100 pounds, minimum weight 30,000 pounds. The applicants were ordered to collect the undercharges resulting from that transportation.

Willamette Plywood Corporation as successor in interest to Willamette Builders Supply Company, a party of record in this proceeding, by petition herein requests the Commission to modify Decision No. 51347 by deleting therefrom the third ordering paragraph therein, which ordering paragraph is as follows:

"IT IS HEREBY FURTHER ORDERED that Thomas B. Watt, Jr., and Walter J. Nelson shall, when the undercharges mentioned in the preceding opinion have been collected from Willamette Builders Supply Company, promptly inform the Commission of that fact, identifying each shipment involved by date of movement, weight and total charges collected thereon, and setting forth the date or dates on which said undercharges shall have been collected."

Petitioner alleges that originally both the shipper and the carrier believed that the movements from Indian Creek to railhead at

Hornbrook were intrastate in character and that Application No. 36562 and the first supplemental application therein were filed upon this belief. It was at the time of hearing on the first supplemental application in April, 1956, when the Public Utilities Commission staff brought out the fact that the bulk, if not all, of the movements for this particular shipper from Indian Creek to Hornbrook were interstate in character, that the carrier and the shipper were apprised of this situation.

The evidence in this matter disclosed that shipments which were transported from Indian Creek to rail siding at Hornbrook by applicants were loaded on rail cars for destination at Aumsville, Oregon. Petitioner here states that a review of its records respecting the shipments moving during the period August 10, 1954, to May 9, 1955, the period involved in the order in Decision No. 51347 requiring the collection of undercharges, discloses that all such shipments were interstate in character in that the transportation from Indian Creek to Hornbrook was part of a through movement to Aumsville, Oregon.

The Transportation Division of the Commission has made a further investigation of the movement in question. It reports that the shipments were destined to Aumsville, Oregon at the inception of the movement from Indian Creek and that there was no interruption of the through movement to Oregon except that occasioned by transshipment from truck to rail at Hornbrook.

The federal government has occupied the field of regulation over the transportation involved herein, therefore, good cause appearing,

IT IS ORDERED that the third ordering paragraph of Decision No. 51347 in this proceeding be and it is hereby canceled.

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

Dated at San Francisco, California, this 27th day of DECEMBER, 1956.

E. N. Mitchell
President
Pauls Luberman
Wm. D. Dole
R. Hardy
Commissioners