

Decision No. 55521**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates and practices of ELLIS) Case No. 5935
 McPHERSON.)
)

Ellis McPherson and Lorraine McPherson
 in propria personae.

William C. Bricca and Arthur Lyon for
 the Commission staff.

O P I N I O N

On April 22, 1957, the Commission issued an order instituting investigation into the operations, rates and practices of Ellis McPherson.

A public hearing was held before Examiner Thomas E. Daly on July 3, 1957, at Healdsburg and the matter was submitted.

The record discloses that applicant conducts and operates a trucking business from his residence at 6195 Dry Creek Road, Healdsburg. He holds permits as a highway contract carrier and a radial highway common carrier. He owns and operates four pieces of equipment and employs four drivers.

During the course of hearing the staff presented one witness from its Field Section and one from its Rate Section. The results of their investigations were introduced in evidence.

The period covered by the investigation included the first eight months of 1956. Photostatic copies of freight bills and supporting documents relating to approximately 42 shipments were received in evidence as Exhibit No. 1. They indicate, and we hereby find, that in 14 instances respondent charged less than the applicable

minimum rate and appropriate surcharge. We further find that as to the balance of the shipments respondent charged the correct rate, but failed on four occasions to include an applicable 5 per cent surcharge, and on 24 occasions failed to include an applicable 7 per cent surcharge. We find that the undercharges total \$575.

Respondent's wife testifying on his behalf stated that she performs the office work of the business and rated the shipments. The undercharges she claimed were the result of ignorance on her part although she had in her possession the appropriate minimum rate tariffs and supplements thereto. She testified that she has been charging a proper rate and surcharge since the matter was called to her attention by a representative of the Commission's Field Division.

After consideration the Commission is of the opinion and so finds that respondent has violated the minimum rate tariff by charging less than that authorized. Respondent's operating authority will be suspended for two days.

Respondent will be directed to cease and desist from the collection of charges not authorized. Respondent will be further directed to collect the undercharges set forth in Appendix A attached hereto.

ORDER

The Commission having instituted investigation herein, public hearing having been held and the Commission being informed in the premises,

IT IS ORDERED:

(1) That Ellis McPherson is directed to cease and desist from the collections of charges not authorized.

(2) That the operating authority of Ellis McPherson, i.e., Radial Highway Common Carrier Permit No. 49-1375 and Highway Contract Carrier Permit No. 49-1758, is hereby suspended for a period of 2 days beginning at 12:01 A.M. on the second Monday following the effective date hereof.

(3) That Ellis McPherson shall post in his terminal and station facilities used for receiving property from the public for transportation, not less than five days prior to the beginning of the suspension period, a notice to the public stating that his operating authority under his permits has been suspended by the Commission for the period of two days.

(4) That Ellis McPherson is directed within twenty days after the effective date of this order:

(a) To take all appropriate action to collect the undercharges indicated upon Appendix A attached hereto.

(b) To notify the Commission in writing upon the consummation of said collections.

(5) That in the event that the charges to be collected as provided in paragraph (2) of this order, or any part thereof, remain uncollected eighty days after the effective date of this order, Ellis McPherson shall submit to the Commission on Monday of each week a report specifying the action taken to collect said charges and the result of said action, until said charges have been paid in full or until further order of this Commission.

(6) That the Secretary of the Commission is directed to cause personal service of this order to be made upon Ellis McPherson, and this order shall become effective twenty days after the completion of said service.

Dated at San Francisco, California, this 2nd day of SEPTEMBER, 1957.

John E. Mitchell
 President

Ray G. Lawrence

R. Hardy

E. J. Fox

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A

<u>Freight Bill No.</u>	<u>Rate Charged</u>	<u>Rate That Should Have Been Charged</u>	<u>Amount of Undercharges</u>
0684	85.85	113.47	27.62
0686	84.76	112.04	27.28
0689	83.30	110.10	26.80
0691	81.70	108.00	26.30
0699	82.38	108.89	26.51
0700	82.82	109.47	26.65
0714	117.41	123.28	5.87
2762	122.13	130.68	8.55
2767	138.51	148.21	9.70
2359	134.81	144.25	9.44
2367	118.56	126.86	8.30
2902	81.63	107.90	26.27
2906	81.43	107.63	26.20
2907	91.02	120.30	29.28
2908	85.37	112.84	27.47
2909	82.28	108.75	26.47
2911	84.05	111.09	27.04
2912	84.83	112.13	27.30
3458	128.80	137.82	9.02
3460	88.40	116.84	28.44
4800	55.22	59.09	3.87
4811	76.50	81.86	5.36
4814	72.01	77.05	5.04
4816	66.56	71.22	4.66
4817	68.35	73.13	4.78
4818	70.12	75.03	4.92
4820	68.85	73.68	4.82
4823	62.06	66.40	4.34
4825	61.89	66.22	4.33
4837	64.84	69.38	4.54
4854	138.80	145.74	6.94
4858	130.39	136.91	6.52
4875	127.15	136.05	8.90
4884	168.71	180.52	11.81
4898	87.15	97.74	10.59
6357	126.56	135.42	8.86
6381	79.66	85.24	5.58
6389	60.96	65.23	4.23
6391	71.57	76.58	5.01
6393	145.73	155.93	10.20
6396	146.05	156.27	10.22
7244	190.61	200.14	9.53