

ORIGINAL

Decision No. 55861

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates and practices of MITCHELL)
 BROS. TRUCK LINES, a corporation.)

Case No. 5941

Norman Sutherland, for respondent.
S. A. Moore, for Permanente Cement Co.,
 interested party.
Hector Anninos and Arthur Lyon, for
 the Commission staff.

O P I N I O N

On May 14, 1957, the Commission issued an order of investigation into the operations, rates and practices of Mitchell Bros. Truck Lines, a corporation, for the purpose of determining whether respondent has acted in violation of Section 3667 of the Public Utilities Code by charging, demanding, collecting, or receiving a lesser compensation for the transportation of property than the applicable rates prescribed in the Commission's Minimum Rate Tariff No. 2 (dealing with general commodities) and Minimum Rate Tariff No. 10 (dealing with cement). It was also the purpose of this investigation to determine whether respondent has acted in violation of the Public Utilities Code by failing to adhere to other provisions and requirements of Minimum Rate Tariffs Nos. 2 and 10.

A public hearing was held at Crescent City before Examiner William L. Cole on August 22, 1957 at which time the matter was submitted.

Prior to the hearing, respondent filed a motion to make the order of investigation more definite and certain. This motion is hereby denied.

At the time of the hearing, members of the Field Section and Rate Branch of the Commission staff testified as did the manager of respondent's Crescent City office. The evidence shows that respondent had in force at the time the shipments in question took place, permits issued by this Commission to operate as a radial highway common carrier and as a city carrier. The record also shows, and the Commission finds and concludes, that the applicable tariffs, with their corrections, had been served on respondent. From the evidence introduced it appears that various violations have occurred with respect to respondent's rates and practices. These alleged violations appear to be of three different types and will be discussed separately for convenience.

Destinations Off Railhead

The first type of violation resulted from the fact that the precise points of destination of various of the shipments transported by respondent were not on railhead. Respondent in rating these shipments used the alternate rail rates authorized in Items 200-E and 210-D of Tariff No. 2 and Items 150 and 160-A of Tariff No. 10. However, respondent did not assess the necessary additional charges for the delivery to the precise points of destination which were off railhead.

The Commission hereby finds and concludes that the following facts exist with respect to these shipments and further finds and concludes that the applicable minimum charge shown for each

shipment is the correct minimum charge as set forth in the Commission's tariffs:

: Freight : : Bill : : Number :	: Date :	: Point : of : Origin :	: Point : of : Destination ¹ :	: Weight : in : Pounds ² :	: Charge : Assessed :	: Appli- : cable : : Minimum: : Charge :
C-21581	3-21-56	Eureka	Oakland ³			
			Concord	44,952	\$188.86	\$190.53
C-21569	3-21-56	Eureka	Oakland	45,747	160.02	174.87
C-21868	4-17-56	Eureka	Menlo Park	44,400	174.14	178.60
C-22225	5-24-56	Petaluma ⁴				
		Permanente	Crescent City	36,140	240.24	261.35
C-22141	5-17-56	Eureka	Menlo Park	41,180	161.51	166.84
C-22877	7-28-56	Crescent City	Fresno	48,000	336.86	375.83
C-22762	7-17-56	Crescent City	San Rafael	39,424	193.09	215.13
C-22732	7-13-56	Smith River	Sacramento	45,000	258.62	294.16
C-23318	8-31-56	Crescent City	Manteca	42,570	267.17	282.23
C-23100	8-16-56	Crescent City	Milpitas	48,000	301.25	320.30
C-22990	8--7-56	Crescent City	Palo Alto	50,240	312.59	324.50
C-23677	9-28-56	Crescent City	Palo Alto	48,500	304.39	318.45
C-23503	9-17-56	Crescent City	Santa Rosa	43,350	203.14	235.39
C-23332	9--4-56	Crescent City	Santa Cruz	45,700	306.19	331.95
C-23852	10-17-56	Crescent City	Berkeley	45,780	267.91	284.09
C-23702	10--2-56	Crescent City	San Jose	44,000	276.15	293.62

- 1 With respect to each of the shipments, the precise point of destination was located off of railhead.
- 2 All of the shipments consisted of the transportation of lumber except the shipment identified by Freight Bill No. 22225, which was a shipment of sacked cement.
- 3 This shipment was a split delivery shipment with 25,142 pounds being delivered to Oakland and 19,810 pounds being delivered to Concord.
- 4 This shipment was a split pickup shipment with 33,840 pounds being picked up at Permanente and 2,300 pounds being picked up at Petaluma.

Document Violations

The second type of violation involved relates to the fact that respondent did not set forth sufficient information on certain of its shipping documents as required by Tariffs 2 and 10.

Item 255-C of Tariff No. 2 and Item 180 of Tariff No. 10 require, in effect, that the carrier issue a shipping document to the shipper

and that such document contain sufficient information to properly rate the shipment,

With respect to the shipments set forth above, the evidence shows and the Commission hereby finds and concludes that the documents issued by respondent did not contain information relative to points of destination being on railhead and that with respect to these shipments, such information was necessary in order to properly rate the shipments.

Improper Consolidation of Shipments

The third type of violation shown by the evidence consisted of the improper consolidation by respondent of two shipments of lumber for billing purposes. Respondent contends that these shipments constituted two lots of a single shipment. Item 85 of Tariff 2 authorizes multiple lot shipments but requires, with respect to such shipments, that a single shipping document, showing the entire shipment, be issued prior to, or at the time of, the time of the first pickup. The Commission finds and concludes that respondent did not issue a single shipping document showing all of the property transported by these two shipments at, or prior to, the time the property was first picked up.

The Commission further finds and concludes that the following facts exist with respect to these shipments:

:Freight:	:	Point of	:	:	:	Charge :
:Bill No.:	Date :	Origin	:Destination:	Commodity:	Weight :	Assessed:
C-21144	2-8-56	Crescent City	Eureka	Lumber	22,312	\$51.32
C-21069	2-7-56	Crescent City	Eureka	Lumber	22,277	53.80

The Commission finds and concludes that the correct minimum charge for the shipment identified by Freight Bill No. C-21144 is \$66.77 and that the correct minimum charge for the shipment identified by Freight Bill No. C-21069 is \$66.66.

Other Evidence

The record shows that prior to the time the various shipments in question took place, respondent had been warned by the Commission staff about rate violations involving the use of alternate rail rates on shipments where the points of destination are off railhead.

Conclusions

In view of the facts hereinabove found, the Commission finds and concludes that respondent has violated Section 3667 of the Public Utilities Code by charging, demanding, collecting, or receiving a lesser compensation for the transportation of lumber and cement than the applicable rates and charges prescribed by the Commission's Minimum Rate Tariffs Nos. 2 and 10 resulting in total undercharges of \$324.02. The Commission further finds and concludes that respondent has violated the provisions of Item 255-C of Tariff No. 2 and Item 180 of Tariff No. 10 in not showing sufficient information on its shipping documents as required by these tariffs.

All of the facts and circumstances of record have been considered. Respondent's operative rights will be suspended for ten consecutive days and he will be directed to collect the undercharges hereinabove found. Respondent will also be directed to examine his records from the period January 1, 1956 to the present time in order to determine if any additional undercharges have occurred and if so to collect such undercharges.

O R D E R

A public hearing having been held in the above-entitled matter and the Commission being fully informed therein, now therefore,

IT IS ORDERED:

1. That the radial highway common carrier permit and the city carrier permit issued to Mitchell Bros. Truck Lines, a corporation, by this Commission, be and they hereby are suspended for ten consecutive days starting at 12:01 a.m. on the second Monday following the effective date hereof.
2. That Mitchell Bros. Truck Lines shall post at its 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 its radial highway common carrier permit and its city carrier permit have been suspended by the Commission for a period of ten days.
3. That Mitchell Bros. Truck Lines shall examine its records for the period from January 1, 1956, to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.
4. That Mitchell Bros. Truck Lines is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in the preceding opinion together with any additional undercharges found after the examination required by paragraph 3 of this order and to notify the Commission in writing upon the consummation of such collections.
5. That in the event charges to be collected as provided in paragraph 4 of this order, or any part thereof, remain uncollected eighty days after the effective date of this order, Mitchell Bros. Truck Lines shall submit to the Commission, on Monday of each week, a report of the undercharges remaining to be collected and specifying the action taken to collect such charges and the result of such action, until such charges have been collected in full or until further order of the Commission.

6. The Secretary of the Commission is directed to cause personal service of this order to be made upon Mitchell Bros. Truck Lines and this order shall be effective twenty days after the completion of such service.

Dated at San Francisco, California, this 19th day of November, 1957.

W. E. Mitchell
President
John W. [unclear]
Michael [unclear]
R. [unclear]
E. L. Fox
Commissioners