

ORIGINALDecision No. 55980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates, and practices of RAY and) Case No. 5973
 EARL SUMMERS, co-partners, doing)
 business as NORTH COAST TRANSPORT.)

Earl Summers and Ray Summers, on behalf of themselves,
 as respondents.

Hector Anninos and A. J. Lyon, on behalf of the
 Commission staff.

O P I N I O N

On August 27, 1957, the Commission issued an order of investigation into the operations, rates and practices of Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport. The purpose of this investigation is to determine whether respondents have violated 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 by the Commission's Minimum Rate Tariff No. 2 (dealing with general commodities).

A public hearing was held on November 13, 1957, at Eureka before Examiner William L. Cole, at which time the matter was submitted.

At the time of the hearing, representatives of the Commission's Rate Branch and Field Section testified on behalf of the Commission staff. Mr. Ray Summers testified on behalf of the respondents. From the evidence introduced, it appears that various violations have occurred. These violations resulted principally because respondents did not assess off rail rates with respect to various shipments of lumber, the points of origin or destination of which were located off rail. In some instances, the violations occurred because respondents did not assess the necessary surcharge to their transportation charges.

Based upon the evidence introduced, the Commission hereby finds and concludes that the following facts exist:

During the period from April through December 1956, respondents, doing business as North Coast Transport, operated as a radial highway common carrier pursuant to a permit issued by the Commission. During this period of time, respondents had in their possession the Commission's Minimum Rate Tariff No. 2, together with all supplements and additions thereto. Likewise, during this period of time, respondents transported certain shipments of lumber which are more particularly described below.

Further relevant facts pertaining to these shipments, which the Commission hereby finds, together with its conclusions concerning the correct minimum charges for such shipments, are set forth in the following table:

Freight Bill No.	Date	Point of Origin	(1)		Rail-(2)		Charge(4)	
			Rail- head Infor- mation at Origin	Point of Desti- nation	head Infor- mation at Desti- nation	(3) Weight	Asses- sed by Re- spon- dents	Correct Minimum Charge
2368	4/19/56	Fortuna	on	Oakland	off	47,400	\$165.81	\$181.19
2484	5/13/56	Piercy	off	Anaheim	off	44,760	304.14	352.89
2506	5/21/56	Carlotta	on	Torrance	off	52,760	320.76	336.39
2515	5/24/56	Inglewood	off	Napa	off	49,190	180.09	196.04
2526	5/28/56	Myers Flat	off	Albany	on	44,500	183.14	189.77
2803	9/ 8/56	Fortuna	on	Ventura	off	43,200	260.83	275.43
2834	9/25/56	Inglewood	off	Hayward	off	42,060	164.96	201.37
2852	10/ 2/56	Carlotta	on	Oxnard	off	45,760	285.12	291.76
2846	9/29/56	Fortuna	on	L. A.	off	53,020	334.03	338.04
2875	10/12/56	Fortuna	on	Inglewood	off	50,260	290.66	320.45
2892	10/19/56	Fortuna	on	L. A.	off	49,120	309.46	313.17
2732	8/ 9/56	Fortuna	on	L. A.	off	48,950	308.39	312.09
2753	8/15/56	Fortuna	on	So. S.F.	off	51,008	172.37	190.29
2782	8/28/56	Fortuna	on	Fairfax	off	49,260	125.32	158.10
2872	10/11/56	Carlotta	on	Long Beach	off	50,120	304.92	319.55
2921	10/31/56	Fortuna	on	Inglewood	off	50,500	290.38	321.97
2944	11/15/56	Fortuna	on	L. A.	off	49,440	311.47	315.21
2985	12/14/56	Fortuna	on	L. A.	off	49,700	289.36	316.87
2990	12/18/56	Fortuna	on	Pomona	off	44,300	265.34	282.45
2992	12/18/56	Fortuna	on	L. A.	off	47,280	288.04	301.45

- (1) "On" indicates that point of origin is on railhead.
"Off" indicates that point of origin is off railhead.
- (2) "On" indicates that point of destination is on railhead.
"Off" indicates that point of destination is off railhead.
- (3) Weight in pounds.
- (4) The amounts collected by respondents for the transportation were the same amounts that were charged by them.

Based upon the foregoing facts, the Commission hereby finds and concludes that respondents violated Section 3667 of the Public Utilities Code by charging and collecting a lesser compensation for the transportation of lumber than the applicable minimum rates prescribed by the Commission resulting in total undercharges amounting to \$359.89. Respondents' operating rights will be suspended for a period of five days and they will be ordered to collect the undercharges hereinabove found. Respondents will also be directed to examine their records from the period January 1, 1956 to the present time in order to determine if any additional undercharges have occurred and to file with the Commission a report setting forth the

additional undercharges, if any, they have found. Respondents will also be directed to collect any such additional 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 issued to Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, is hereby suspended for five consecutive days starting at 12:01 a.m. on the second Monday following the effective date hereof.
2. That Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, shall post at their 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 has been suspended by the Commission for a period of five days.
3. That Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, shall examine their 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 within sixty days after the effective date of this decision, Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 3.

5. That Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, are 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.

6. That in the event charges to be collected as provided in paragraph 5 of this order, or any part thereof, remain uncollected ninety days after the effective date of this order, Ray Summers and Earl Summers, co-partners, doing business as North Coast Transport, 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.

7. The Secretary of the Commission is directed to cause personal service of this order to be made upon Ray Summers and upon Earl Summers, doing business as North Coast Transport, and this order shall be effective twenty days after the completion of such service upon both respondents.

Dated at San Francisco, California, this 16th day of December, 1957.

[Signature]
President

[Signature]

[Signature]

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Commissioners