

Decision No. 56002**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's )  
 own motion into the operations, rates, ) Case No. 5971  
 and practices of MERRILL J. BROWN, )  
 doing business as BROWN'S TRUCKING. )

Merrill J. Brown, in propria persona.  
Martin J. Porter and George B. Dill,  
 for the Commission's staff.

O P I N I O N

On August 27, 1957, the Commission issued an order instituting an investigation into the operations, rates and practices of Merrill J. Brown, doing business as Brown's Trucking.

A public hearing was held before Examiner Thomas E. Daly at San Francisco on October 29, 1957, and the matter was submitted.

During the course of hearing, the staff presented witnesses from the Commission's Transportation Division. The results of their investigation were introduced into the record.

The investigation covered the period from August 1956 to March 1957.

The record consists primarily of 27 freight bills and supporting documents, which indicate violations of the minimum rates resulting in undercharges amounting to \$1,476.06.

On a number of beer shipments moving from Los Angeles to San Leandro, respondent charged rates of 29 cents and 36 cents per 100 pounds. Said rates were applied to the actual weight of the shipments, which averaged approximately 40,000 pounds each. The minimum rail rate is 29 cents per 100 pounds applicable to minimum

shipments of 60,000 pounds. Respondent also consolidated shipments which did not comply with the provisions of Item 85-A of Minimum Rate Tariff No. 2 and on several occasions he failed to include appropriate off-rail charges.

A question arose as to whether the Pioneer Pallet Company located in Oakland was "on-rail." The record shows, however, that the pallet company is "off-rail."

Respondent stipulated that at the time the order instituting investigation of his operations was issued, he was engaging subhaulers without having filed with the Commission a bond in conformity with Section 3575 of the Public Utilities Code and General Order No. 102. Since that time, he stated, the necessary bond has been filed.

After consideration, the Commission is of the opinion and so finds that, during the period here involved, respondent acted in violation of the Public Utilities Code by charging, demanding, collecting and receiving a lesser compensation for the transportation of property than that applicable in Minimum Rate Tariff No. 2, and that he operated in violation of Section 3575 of the Public Utilities Code and General Order No. 102. Respondent will be directed to cease and desist from the collection of charges not authorized. Respondent's

operating authority will be suspended for five days, and respondent will be directed to collect the undercharges set forth in Appendix "A" attached hereto.

O R D E R

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

IT IS ORDERED:

1. That Merrill J. Brown, doing business as Brown's Trucking, cease and desist from charging, demanding, collecting and receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2.

2. That the operating authority of Merrill J. Brown, doing business as Brown's Trucking (i.e. Radial Highway Common Carrier Permit No. 1-5421; Contract Carrier Permit No. 1-8248; and City Carrier Permit No. 1-7456), is hereby suspended for a period of five consecutive days beginning at 12:01 a.m. on the second Monday following the effective date hereof.

3. That respondent 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 five days.

4. That respondent is directed within twenty days after the effective date of this order:

- (a) 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 the 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, respondent shall submit to the Commission, on Monday of each week, a report specifying the action taken to collect said charges and the results 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 respondent, and this order shall become effective twenty days after the completion of said service.

Dated at San Francisco, California, this 17<sup>th</sup> day of December, 1957.

[Signature]  
President

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners

## APPENDIX A

<u>Freight Bill Number</u>	<u>Rates Charged</u>	<u>Rates That Should Have Been Charged</u>	<u>Amount of Undercharges</u>
07713	\$125.28	\$174.00	\$ 48.72
05602	118.32	174.00	55.68
08195	125.28	174.00	48.72
09151	125.28	174.00	48.72
09106	118.32	174.00	55.68
09111	118.32	174.00	55.68
05271	142.56	174.00	31.44
11400	151.20	174.00	22.80
05274	146.88	174.00	27.12
10068	143.42	174.00	30.58
05275	142.56	174.00	31.44
10705	138.24	174.00	35.76
11423	114.48	225.96	111.48
10505	162.86	231.31	68.45
00711	153.12	256.60	103.48
10507	284.71	574.06	289.35
00722	131.81	174.00	42.19
00723	128.40	179.53	51.13
00724	118.32	174.00	55.68
00725	131.81	220.89	89.08
08462	15.00	34.22	19.22
08271	90.49	101.22	10.73
08951	158.78	174.72	15.94
12057	158.90	174.86	15.96
09409	193.87	226.06	32.19
09416	195.10	224.05	28.95
09496	175.75	225.64	49.89