

ORIGINALDecision No. 56129

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,) Case No. 5963
 rates and practices of ROYAL)
 HINKLE.)

Edmund M. Moor, on behalf of
 respondent.
Hector Anninos and E. E. Cahoon, on
 behalf of the Commission staff.

O P I N I O N

On August 13, 1957, the Commission issued an order of investigation into the operations, rates and practices of Royal Hinkle. This investigation was instituted for the purpose of determining:

(1) Whether respondent violated Item 257 of the Commission's Minimum Rate Tariff No. 2 by assessing charges based upon a unit of measurement other than that prescribed in the tariff.

(2) Whether respondent violated Item 255-C of Minimum Rate Tariff No. 2 by issuing shipping documents which did not contain the information required by that tariff.

(3) Whether respondent has violated Section 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the minimum rates prescribed in Tariff No. 2.

(4) Whether respondent should be ordered to maintain proper and adequate accounts receivable records as required by the Uniform System of Accounts for Class II carriers.

A public hearing was held on October 30, 1957 at Red Bluff before Examiner William L. Cole, at which time the matter was submitted.

Based upon the evidence in the record, the Commission hereby finds that at the time the shipments hereinafter referred to took place respondent had in force radial highway common carrier and highway contract carrier permits issued by the Commission. The Commission further finds that during this period of time respondent had been served with the applicable rules and regulations of the Commission pertaining to the shipments in question, and that during this period of time respondent was a Class II carrier.

Examination of the evidence introduced at the time of the hearing indicates that various types of violations were committed by respondent, which violations will be discussed separately for convenience.

Improper Unit of Measurement and Document Violations

The first type of violation shown by the evidence consists of respondent's assessing transportation charges based upon an improper unit of measurement.^{1/} Based upon the evidence introduced, the Commission hereby finds that the following facts exist:

During the year 1956, respondent hauled in excess of 5,000 shipments of lumber between Chico and Oswald. Respondent's method of operation with respect to all of the shipments was the same.

^{1/} Item 257 of Minimum Rate Tariff No. 2 provides: "Rates or accessorial charges shall not be quoted or assessed by carriers based upon a unit of measurement different from that in which the minimum rates and charges in this tariff are stated."

One of respondent's trucks would pick up a load of green lumber from the Diamond Match Company at Chico and transport it to the Yuba City Lumber Dryers at Oswald. At Oswald the truck would unload the green lumber and pick up a load of dried lumber from the Yuba City Lumber Dryers and transport the lumber back to the Diamond Match Company at Chico. This same truck would make two or three such round trips per day. Respondent had approximately six trucks conducting this operation daily. The operation constitutes the major portion of respondent's for-hire carrier activities. Respondent would prepare one freight bill for each round trip performed by each truck. This freight bill would show the number of units (usually eight) of green lumber transported, and also the number of hours required for the round trip. The documents did not show, however, what constituted a unit of lumber. The freight bill would also show that a rate of \$10.30 per hour was used by respondent in calculating the total transportation charge. This total transportation charge was also shown on the freight bill. Respondent did not issue a new shipping document for the shipment of dried lumber hauled on the return trip. Furthermore, the freight bills issued by respondent showed the point of destination as being Yuba City rather than Oswald.^{2/}

The rates set forth in Minimum Rate Tariff No. 2 for the transportation of lumber are founded on units of measurement based upon weight or board-foot measure, but not upon time. Therefore, on the basis of the facts hereinabove found, the Commission finds and concludes that respondent violated Item 257 of Minimum Rate Tariff No. 2 by assessing charges for the transportation of lumber based on a unit of measurement different from those on which the minimum rates

^{2/} Oswald is located approximately 5.5 constructive miles south of Yuba City.

and charges for the transportation of lumber in Tariff 2 are stated.

As hereinabove found, respondent's freight bills showed only that a given number of units of lumber were transported. The weight of the lumber or its board-foot measure was not shown. Estimates were made at the time of the hearing as to the weight of each shipment of lumber; however, the weight of the lumber could not be accurately shown. For this reason, the correct minimum charges for each shipment could not be ascertained.^{3/}

As pointed out above, respondent did not issue a separate freight bill for the return shipment of dried lumber. Furthermore, an incorrect point of destination was shown on the freight bills that respondent did issue. In this regard, Item 255-C of Minimum Rate Tariff No. 2 requires that a carrier issue a shipping document to the shipper for each shipment received for transportation. This item further provides that the document must show, among other things, the point of destination of the shipment. Therefore, based upon the facts hereinabove found, the Commission further finds and concludes that respondent violated this item of Minimum Rate Tariff No. 2.

Other Rate Violations

The evidence also shows that rate violations were committed by respondent with respect to certain other shipments of lumber. These violations resulted because of respondent's applying a rate based upon a certain minimum weight and then not observing that minimum weight. A second reason for these violations was respondent's failure to collect the required surcharge.

^{3/} Based upon a conservative estimate of the weight of the lumber transported in each shipment, a rate expert from the Commission's staff estimated that the amount of the undercharges for each round trip approximated \$54.98.

Based upon the evidence introduced with respect to these shipments, the Commission finds that the point of origin of each of the shipments was Paynes Creek, which is located off railhead; that the point of destination of each of the shipments was Richfield, at a point on railhead; and that the commodity transported was lumber. Further relevant facts concerning these shipments, which the Commission hereby finds, together with its conclusions as to the correct minimum rates for such shipments, are set forth in the following table:

Freight Bill Number	Date	Weight *	Charge Assessed	Correct Minimum Charge
13205	3/28/56	20,500	\$23.58	\$34.14
13206	3/29/56	19,200	22.08	33.60
13207	3/30/56	22,400	25.76	36.23
13209	4/2/56	23,400	26.91	36.23
13219	4/10/56	25,400	29.21	36.23
13221	4/11/56	23,600	27.14	36.23
13224	4/14/56	21,750	25.01	36.23
13229	4/18/56	24,400	28.06	36.23
13235	4/25/56	23,100	26.57	36.23
13239	4/27/56	22,900	26.34	36.23

*In Pounds

Based upon the foregoing facts, the Commission finds and concludes that respondent violated Section 3667 of the Public Utilities Code by charging and collecting a lesser compensation for the transportation of property than the minimum rates prescribed by the Commission, resulting in undercharges totaling \$97.22.

Accounting Records

The evidence in the record shows that respondent's accounts receivable records were kept in such a manner that it was impossible to ascertain from them whether or not certain freight bills had been paid. The Commission's Uniform System of Accounts for Class II Radial Highway Common Carriers and Highway Contract Carriers requires that an accounts receivable account be maintained.^{4/}

^{4/} Page 17 of the Commission's Uniform System of Accounts for Class II carriers.

It further requires that: "Each carrier shall keep its general accounting books and all other books, records and memoranda which support in any way the entries to such accounting books and analyses of general ledger account balances so that it can furnish at any time full information as to any account. Moreover, it shall support each entry to each account with such detailed information as will provide a ready analysis and verification of the facts recorded therein."^{5/}

Respondent is hereby admonished to maintain its accounts receivable records in such a manner that it can be ascertained therefrom what freight bills have been paid.

Conclusions

The Commission has found that respondent has violated Section 3667 of the Public Utilities Code and Items 255-C and 257 of the Commission's Minimum Rate Tariff No. 2. Respondent will be ordered to cease and desist from such violations in the future and his operating authority will be suspended for a period of ten days. Respondent will also be ordered to collect the \$97.22 in undercharges hereinabove found.

O R D E R

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

IT IS ORDERED:

1. That Royal Hinkle is hereby ordered to cease and desist from violating Section 3667 of the Public Utilities Code and Items

^{5/} Page 8 of the Commission's Uniform System of Accounts for Class II carriers.

255-C and 257 of the Commission's Minimum Rate Tariff No. 2.

2. That the radial highway common carrier and highway contract carrier permits issued to Royal Hinkle are hereby suspended for ten days commencing at 12:01 a.m. on the second Monday following the effective date hereof.

3. That Royal Hinkle post at his terminal and station facilities used for receiving property from the public for transportation not later 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 ten days.

4. That Royal Hinkle is hereby directed to take such action as may be necessary to collect the \$97.22 in undercharges found in the preceding opinion 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 the preceding paragraph of this order, or any part thereof, remain uncollected ninety days after the effective date of this order, Royal Hinkle 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. That the Secretary of the Commission is directed to cause personal service of this order to be made upon Royal Hinkle, and this order shall be effective twenty days after such service.

Dated at San Francisco, California, this 21st day of January, 1958.

W. E. Mitchell
President

Ronald Cantarone

Walter Deane

R. Hardy

E. J. Fox
Commissioners