

**ORIGINAL**Decision No. 57084

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
 own motion into the operations,  
 rates and practices of H. B. HUGHES,  
 JR., KENNETH R. HARTMAN, and EARL  
 K. GRIFFITH, doing business as  
 SEQUOIA TRUCKING. )  
 )  
 ) Case No. 6066  
 )  
 )

Earl K. Griffith for Sequoia Trucking, respondent.  
Hugh N. Orr for the Public Utilities Commission staff.

O P I N I O N

This is an investigation on the Commission's own motion into the operations, rates and practices of H. B. Hughes, Jr., Kenneth R. Hartman and Earl K. Griffith, doing business as Sequoia Trucking, as set forth in the Commission's order of March 3, 1958.

A duly noticed public hearing was held in San Francisco on June 4, 1958 before Examiner Donald B. Jarvis.

At the hearing the Commission staff moved to withdraw from consideration in this matter certain alleged violations and leave to so do was granted. The respondents conceded the remaining violations charged against them. The respondents offered evidence in extenuation and mitigation. Said evidence consisted of testimony to the effect that the freight bills involved were prepared and rated by a former employee who represented that he was competent to prepare and rate said freight bills but who, in fact, did not have such competence; that said employee was discharged when respondents became aware of his lack of competence; that the improper ratings and charges assessed in connection with the sums here involved were inadvertent and not willful; that respondents' records indicate that similar shipments during the period here involved between some of the same consignors and consignees were properly rated and charges therefor properly assessed;

that respondents fully cooperated with the Commission staff during the investigation; and that subsequent to the order instituting investigation respondents have informally attempted to collect certain of the alleged undercharges. Evidence was offered to indicate that respondents own eight pieces of operating equipment and employ six drivers, together with one office employee.

Based upon the evidence of record in this matter, the Commission makes the following findings and conclusions:

1. At all times here involved, respondents were operating pursuant to a radial highway common carrier permit, a highway contract carrier permit and a city carrier's permit, all issued by this Commission.

2. At all times herein mentioned, respondents had been served with the Commission's Minimum Rate Tariff No. 2 and all supplements thereto, as well as the Commission's Distance Table No. 4 and all supplements thereto.

3. On September 14, 1957, respondents transported, under freight bill No. 1201, a shipment of lumber from a consignor in Alton to a consignee in West Covina. Respondents assessed a charge of \$245.92 for said hauling. Respondents improperly calculated the charge for said shipment upon board feet. The shipment should have been rated in cents per hundred pounds. The correct charge for said shipment should have been \$252.56. There was an undercharge in connection with said shipment of \$6.64.

4. During the year 1957, respondents transported certain shipments of lumber between various points in the State of California upon which charges were assessed on the basis that the point of origin and the point of destination were both located on railhead. In these instances respondents assessed charges based only upon rail

rates between said points of origin and destination. On 18 occasions either the point of origin or the point of destination, or both, were not located on railhead and the charges assessed for the transportation done were less than the minimum charges applicable to said transportation. A list of said shipments including the charges actually assessed, as well as the charges the Commission finds should have been assessed as required by law, is as follows:

<u>Frt. Bill No.</u>	<u>Date of Shipment</u>	<u>Place at Which Consignor Located</u>	<u>Weight</u>	<u>City in Which Consignee was Located</u>	<u>Charges Assessed by Respondents</u>	<u>Correct Minimum Charge</u>	<u>Amount of Undercharge</u>
1235	9-24-57	Alton	39,200	Newark	\$137.20	\$165.11	\$27.91
1286	10-10-57	Arcata	47,020	Inglewood	297.40	299.79	2.39
1018	7-23-57	Alton	36,940	Oakland	129.29	142.27	12.98
1028	7-26-57	Alton	43,500	Oakland	152.25	167.55	15.30
1030	7-26-57	Alton	35,940	Oakland	125.79	138.42	12.63
668	4-24-57	Alton	36,390	Oakland	127.37	140.16	12.79
1071	8-5-57	Arcata	48,720	Newark	170.52	205.21	34.69
970	7-15-57	Arcata	40,260	Wilmington	248.67	256.69	8.02
1183	9-11-57	Alton	40,940	Newark	143.29	172.44	29.15
1244	9-26-57	Alton	43,300	Oakland	151.55	166.78	15.23
1247	9-30-57	Alton	45,700	Newark	159.95	192.49	32.54
1261	10-1-57	Alton	51,050	Seaside	214.41	254.01	39.60
1302	10-15-57	Crescent City	43,330	Ontario	344.65	378.26	33.61
848	6-7-57	Gualala	49,800	Sun Valley	315.96	341.46	25.50
849	6-7-57	Gualala	46,420	South San Gabriel	310.72	348.94	38.22
891	6-19-57	Gualala	50,370	Montebello	320.02	323.60	3.58
801	5-23-57	Gualala	48,000	Ontario	315.47	360.86	45.39
809	5-27-57	Gualala	48,860	San Diego	336.52	376.82	40.30

5. In view of the foregoing, the Commission hereby finds and concludes that respondents violated Sections 3665 and 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of lumber than the minimum charges prescribed in the Commission's Minimum Rate Tariff No. 2, resulting in undercharges amounting to \$436.47.

6. Respondents' operating authority should be suspended for a period of three days and they will be ordered to collect the undercharges hereinabove found. Respondents will also be ordered to

examine their records for the period June 1, 1957 to the present time for the purpose of ascertaining whether additional undercharges exist. Respondents will be ordered to comply with Commission rules in connection with the rating of shipments and charges therefor.

O R D E R

Based upon the foregoing findings and conclusions,

IT IS ORDERED that:

1. Respondents shall cease and desist from all future violations of the Commission's Minimum Rate Tariff No. 2.
2. The radial highway common carrier permit and the highway contract carrier permit issued to respondents are hereby suspended for a period of three days commencing on the second Monday after the effective date of this order.
3. Respondents shall post a notice to the public stating that their radial highway common carrier permit and the highway contract carrier permit have been suspended by the Commission for a period of three days. Said notice shall be posted no less than five days prior to the suspension period at respondents' terminal and station facilities used for receiving property for transportation from the public.
4. Respondents shall examine their records for the period from June 1, 1957 until the effective date of this order for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.
5. Respondents are hereby directed to take such action as may be necessary to collect the amount of undercharges set forth in the preceding opinion, together with any additional undercharges found during the examination ordered by paragraph 4 of this order, and to notify the Commission in writing upon the receipt of such collections.

6. In the event that any of the charges to be collected, or any part thereof, as ordered in paragraph 5 of this order, remain uncollected eighty days after the effective date of this order, respondents shall submit to the Commission on the first Monday of each month a report of undercharges remaining to be collected and specifying the action taken to collect such undercharges and the result of such action until such undercharges 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 respondents, and each of them, and this order shall be effective twenty days after the completion of such service upon the first respondent.

Dated at San Francisco, California, this 29<sup>th</sup> day of July, 1958.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

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