

ORIGINALDecision No. 57338

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations, rates
and practices of MILTON W. ZAMBONI,
ET AL., dba "Z.L.S. TRUCKING".

Case No. 6068

Frank Loughran, for respondents.
Hugh N. Orr, for the 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 Milton W. Zamboni, Mary Lightfoot and J. E. Shaver, copartners, doing business as Z.L.S. 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 19, 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 violations were not willful and that the respondents had cooperated with the Commission staff during the investigation. Evidence was offered to indicate that respondents own six pieces of operating equipment and employ three drivers. Respondents' office matters are handled on a contract basis by employees of another

company. The Commission staff also introduced evidence indicating that, in addition to the undercharges here involved, respondents had in their radial highway common carrier operations omitted from certain of the freight bills under consideration information required to be thereon by Item 255 of Minimum Rate Tariff No. 2.

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

1. Respondents hold certificates of public convenience and necessity to operate as a highway common carrier granted by Decision No. 41175 in Application No. 28774 and Decision No. 43424 in Application No. 29680. Respondents also hold a highway contract carrier permit issued by this Commission.
2. At all times here involved, respondents were operating pursuant to a radial highway common carrier permit issued by this Commission.
3. 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.
4. During the year 1957, respondents transported as a radial highway common carrier 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 24 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 performed 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 As- sessed by Respond- ents</u>	<u>Correct Minimum Charge</u>	<u>Amount of Under- charge</u>
9831	3-13-57	Redding	43,000	N.Hollywood	\$258.00	\$291.36	\$33.36
9832	3-14-57	Redding	47,000	S.San Gabriel	282.00	318.47	36.47
9834	3-14-57	Redding	48,800	S.San Gabriel	292.80	330.66	37.86
9835	3-14-57	Redding	44,500	S.San Gabriel	267.00	301.52	34.52
9838	3-15-57	Redding	50,580	N. Hollywood	303.48	342.72	39.24
9839	3-18-57	Redding	47,420	S.San Gabriel	284.52	321.31	36.79
9841	3-18-57	Redding	50,020	S.San Gabriel	300.12	338.92	38.80
9842	3-19-57	Redding	50,260	S.San Gabriel	301.56	340.55	38.99
9946	8-30-57	Redding	40,000	S.Bernardino	240.00	268.55	28.55
9949	9-25-57	Redding	49,800	N.Hollywood	298.80	337.44	38.64
00120	3-13-57	Redding	47,100	Sacramento	103.62	140.16	36.54
00208	4-30-57	Redding	51,500	Sacramento	113.30	153.25	39.95
00522	10-16-57	Redding	43,720	Sacramento	96.18	122.42	26.24
00548	10-28-57	Redding	52,200	Sacramento	114.84	146.16	31.32
02144	3-12-57	Redding	47,800	Sacramento	105.16	142.25	37.09
02563	10-28-57	Redding	51,900	Sacramento	114.18	145.32	31.14
03105	1-29-57	Redding	43,500	Newhall	281.24	294.75	13.51
03131	2-21-57	Redding	48,800	Delhi	195.20	206.45	11.25
9829	3-11-57	Redding	42,050	N.Hollywood	252.30	284.92	32.62
9836	3-15-57	Redding	48,350	N.Hollywood	290.10	327.60	37.50
9830	3-12-57	Redding	50,920	S.San Gabriel	305.52	345.02	39.50
9833	3-14-57	Redding	45,860	Norwalk	275.16	310.74	35.58
02175	3-27-57	Redding	50,900	Sacramento	111.98	151.46	39.48
9844	3-20-57	Redding	48,340	Arcadia	290.04	327.54	37.50

5. In view of the foregoing, the Commission hereby finds and concludes that respondents violated Sections 3664 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 \$812.44.

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

examine their records for the period July 1, 1957 to the present time for the purpose of ascertaining whether additional undercharges exist.

7. Respondents will be ordered to comply in their radial highway common carrier operations with the provisions of Minimum Rate Tariff No. 2 and 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. Respondents shall, in accordance with Item 255 of Minimum Rate Tariff No. 2, place upon all freight bills issued by them as a radial highway common carrier sufficient information to permit the proper rating of said freight bills from information contained on the face thereof.

3. The certificates of public convenience and necessity granted respondents in Decision No. 41175 in Application No. 28774 and in Decision No. 43424 in Application No. 29680 and the radial highway common carrier and highway contract carrier permits issued to respondents by this Commission are hereby suspended for a period of five days commencing on the second Monday after the effective date of this order.

4. Respondents shall post a notice to the public stating that their operating rights have been suspended by the Commission for a period of five 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.

5. Respondents shall examine their records for the period from July 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.

6. 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 5 of this order and to notify the Commission in writing upon the receipt of such collections.

7. In the event that any of the charges to be collected, or any part thereof, as ordered in paragraph 6 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.

8. 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 15th day of September, 1958.

E. L. Fox
President
Ralph W. ...
[Signature]

Commissioners