

Decision No. 57506**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of KERN COUNTY
TRANSFER, INC., a corporation.

Case No. 6124

Nick T. Kernulas, for respondent.Hugh N. Orr, for the Commission staff.O P I N I O N

On June 4, 1958, the Commission issued an order instituting investigation into the operations, rates and practices of Kern County Transfer, Inc., and to determine whether respondent had acted in violation of 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 in Minimum Rate Tariffs No. 2 and No. 8.

A public hearing was held before Examiner Thomas E. Daly on September 16, 1958, at San Francisco, and the matter was submitted.

During the course of the hearing the staff presented one witness from the Commission's Field Section and one from its Rate Section. The results of their studies were introduced in evidence as Exhibits 1 and 2, respectively.

The period covered by the investigation included the months of May, June, and July, 1957. Respondent's operating authority consists of a radial highway common carrier permit and a highway contract carrier permit.

The order of investigation related to the transportation performed pursuant to thirty freight bills. During the course of the hearing the staff eliminated fifteen freight bills and restricted its showing to the remainder. In eight instances the record discloses respondent charged less than the minimum rate per 100 pounds. In fourteen instances respondent failed to include required surcharges. The total undercharges amount to \$243.21.

Respondent's principal place of business is in Bakersfield, California. It was represented by its president, who testified that respondent is primarily engaged in the transportation of produce as a permitted carrier. It was formed, he stated, by a group of five owner-operators of equipment for the purpose of obtaining cheaper insurance rates. He further stated that it was his job to dispatch and rate each shipment. For said services respondent received a commission. He assumed the blame for the undercharges and attributed them to inadvertence. When the method of respondent's operations was recently questioned by a Commission representative, the witness stated that the equipment owners subsequently obtained individual permits and a sub-haul arrangement was negotiated.

After consideration the Commission is of the opinion and finds as follows:

(1) That respondent possesses permits as a radial highway common carrier and as a contract carrier.

(2) That respondent was served with and had in its possession Minimum Rate Tariffs No. 2 and No. 8.

(3) That respondent violated Section 3667 of the Public Utilities Code by charging and collecting a lesser compensation for the transportation of property than the applicable rates prescribed in Minimum Rate Tariffs No. 2 and No. 8.

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 Kern County Transfer, Inc., cease and desist from charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable rates prescribed in Minimum Rate Tariffs No. 2 and No. 8.

2. That Radial Highway Common Carrier Permit No. 15-5808 and Highway Contract Carrier Permit No. 15-6015 issued to Kern County Transfer, Inc., are 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 Kern County Transfer, Inc., shall post in its 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 operating authority under its permits has been suspended by the Commission for the period of five days.

4. That Kern County Transfer, Inc., shall examine its records for the period from January 1, 1958 until the effective date of this order for the purpose of ascertaining if any additional undercharges have occurred.

5. That Kern County Transfer, Inc., is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in Appendix A attached hereto 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. That in the event 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, Kern County Transfer, Inc., shall submit to the Commission on the first Monday of each month a report of the 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.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Kern County Transfer, Inc., and this order shall become effective twenty days after the completion of such service.

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

E. Lynn Fox
President

John Mitchell

Paula F. ...

William ...

Theodore ...
Commissioners

APPENDIX A

| <u>Freight Bill No.</u> | <u>Rate Charged</u> | <u>Rate that Should Have Been charged</u> | <u>Amount of Undercharges</u> |
|-------------------------|---------------------|---|-------------------------------|
| 2743 | \$118.78 | \$129.62 | \$10.84 |
| 2885 | 199.65 | 224.28 | 24.63 |
| 2921 | 158.10 | 176.64 | 18.54 |
| 3172 | 224.42 | 228.87 | 4.45 |
| 3036 | 43.63 | 56.12 | 12.49 |
| 3037 | 80.80 | 98.88 | 18.08 |
| 3038 | 47.27 | 73.21 | 25.94 |
| 3039 | 92.92 | 103.82 | 10.90 |
| 3040 | 24.24 | 44.54 | 20.30 |
| 3156 | 243.36 | 282.02 | 38.66 |
| 3177 | 76.36 | 117.97 | 41.61 |
| 3147 | 204.02 | 208.06 | 4.04 |
| 3092 | 204.02 | 208.27 | 4.25 |
| 3189 | 214.22 | 218.46 | 4.24 |
| 3194 | 214.22 | 218.46 | 4.24 |