

ORIGINAL

Decision No. 58629

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates, and practices of STERLING)
 TRANSIT COMPANY, INC.)

Case No. 6175

Ivan McWhinney, for the respondent.
James S. Eddy, for the Commission staff.

O P I N I O N

On September 2, 1958, the Commission instituted an investigation on its own motion into the operations, rates and practices of Sterling Transit Company, Inc. This investigation was instituted for the purpose of determining whether the respondent has violated the Public Utilities Code by failing to adhere to the rates and charges specified in its tariff schedules filed with the Commission.

A public hearing was held on October 28, 1958 at Los Angeles before Examiner William L. Cole, at which time the matter was submitted.

Findings and Conclusions

Based upon all of the evidence introduced at this hearing the Commission hereby makes the following findings and conclusions:

1. That Sterling Transit Company, Inc. has been issued a certificate of public convenience and necessity to operate as a highway common carrier by this Commission and has also been authorized to operate as a highway permit carrier.

2. That during the period of time hereinbelow referred to in paragraph 3, the respondent had on file with the Commission, tariffs covering its operations as a highway common carrier.

3. That during the months of April, May, June and July, 1957, the respondent, as a highway common carrier, transported various shipments of property for compensation between various points located in the State of California. The evidence shows that the respondent improperly consolidated various of these separate shipments together when assessing and collecting its transportation charges. Further facts surrounding these shipments together with the Commission's conclusions as to the correct transportation charges for such shipments are set forth in the following table:

Date of Shipment	Point of Origin	Point of Destination	Shipper	Charge ¹ : Assessed and Collected	Corrected Applicable Charge	Amount of Undercharge ²
6-17-57	Los Angeles	San Diego	Ford Motor Co.	-	38.62	-
6-17 and 6-18-57	"	Various	"	209.43	193.96	23.15
7-17-57	"	La Jolla	"	-	6.42	-
7-17-57	"	San Diego	"	-	40.89	-
7-17-57	"	" "	"	-	69.18	-
7-17-57	"	La Jolla	"	-	2.92	-
7-18 and 7-19-57	"	Various	"	207.79	156.50	68.12
5- 2-57	"	-	Interchemical Corp.	-	8.76	-
5- 2-57	"	San Jose	"	-	133.65	-
5- 2-57	"	San Carlos	"	-	8.21	-
5- 3-57	"	Various	"	312.35	215.16	53.43
4-19-57	"	Berkeley	Wesco Water Point Co.	-	205.14	-
4-24-57	"	"	"	-	117.06	-
4-25-57	"	"	"	308.28	84.03	97.95
4-18-57	Van Nuys	Palo Alto	Safeway Stores	-	478.15	-
4-19-57	Paramount	"	"	477.11	60.52	61.56
4-29-57	Los Angeles	"	"	-	129.90	-
4-30-57	Paramount	"	"	159.43	52.10	22.57
5-23-57	El Monte	Oakland	Ball Brothers	-	152.00	-
5-25-57	"	"	"	287.83	160.88	25.05
5- 2-57	Los Angeles	San Francisco	Fiat Metal Mfg. Co.	-	57.26	-
5- 2-57	"	Oakland	"	-	57.97	-
5- 2-57	"	San Francisco	"	-	23.14	-
5- 2-57	"	Redwood City	"	-	97.14	-
5- 3-57	"	Fresno	"	-	17.36	-
5- 3-57	"	"	"	-	30.28	-
5- 3-57	"	San Francisco	"	-	47.96	-
5- 6-57	"	"	"	235.81	104.34	199.64
6- 6-57	Torrance	Milpitas	Pittsburgh Plate Glass	-	190.71	-
6- 7-57	"	Various	"	341.40	160.41	9.72
6-11-57	"	San Leandro	"	-	57.43	-
6-12-57	"	Various	"	238.76	219.94	38.61
6-20-57	"	Milpitas	"	-	179.54	-
6-21-57	"	Various	"	339.00	161.12	1.66
7- 9-57	El Monte	Oakland	Ball Bros.	141.41 ³	156.56	15.15

1. Each charge shown in this column represents the charge assessed by respondents for that particular shipment and those immediately preceding it for which no charges are shown.
2. Each undercharge shown in this column represents the resulting undercharge for that particular shipment and those immediately preceding it for which no undercharges are shown.
3. With respect to this shipment, the respondent originally billed the shipper the correct charges of \$156.56. However, because the shipper maintained that the shipment was a component part of a larger multiple lot shipment, the respondent only collected \$141.41.

Violations and Penalty

Based upon the findings and conclusions hereinabove set forth, the Commission further finds and concludes that the respondent has violated Section 494 of the Public Utilities Code by failing to adhere to the applicable rates and charges specified in its tariff schedules filed and in effect at the time the shipments hereinabove referred to, took place. The undercharges resulting from these violations totaled \$616.16.

There were various reasons why the shipments in question could not be consolidated together in the manner in which they were for the purpose of assessing the transportation charges. In some instances the shipments were not picked up within the required 48-hour period. In other instances, the shipments were picked up within the required 48-hour period but a master bill of lading had not been issued prior to or at the time of the first pickup. In still other instances, the respondent consolidated two shipments for billing purposes having different points of origin but the same points of destination, which shipments were picked up on two successive days.

The respondent maintained at the hearing that its employees were not aware of the requirement that the master bill of lading must be issued prior to or at the time of the first pickup of a multiple lot shipment and, likewise, that they were not aware that all components of a split pickup shipment must be picked up on the same day.

It is the Commission's conclusion that respondent's certificate of public convenience and necessity, its radial highway common carrier permit and highway contract carrier permit be suspended to the extent that respondent will be prohibited from serving the shippers hereinabove listed in paragraph 3 for a period of three days. In assessing this suspension, the Commission gave particular attention to the shipment hereinabove referred to wherein the respondent first

assessed the correct charge and then acquiesced in the shipper's position that a lower charge should have been assessed.

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, commencing at 12:01 a.m. on the second Monday following the effective date hereof, Sterling Transit Company, Inc., whether operating as a highway common carrier, radial highway common carrier, or highway contract carrier, shall not serve the following named companies or their successors or agents, either as consignees or consignors, for a period of three days:

Ford Motor Company
Interchemical Corporation
Wesco Water Paint Company
Safeway Stores, Inc.

Ball Brothers
Fiat Metal Manufacturing Co.
Pittsburg Plate Glass Co.

This prohibition shall be considered as a partial suspension of this respondent's certificates of public convenience and necessity to operate as a highway common carrier and its permits to operate as a radial highway common carrier and as a highway contract carrier.

2. That, at least five days before the suspension period commences, Sterling Transit Company, Inc. shall send written notice to the companies named in paragraph 1 notifying them of its suspension and shall further post at its terminal and station facilities used for receiving property from the public for transportation a notice to the public stating that its highway common carrier, radial highway common carrier and highway contract carrier operating authority have been suspended as set forth in paragraph 1 hereof.

3. That Sterling Transit Company, Inc. shall examine its records for the period from April 1, 1957 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

4. That within ninety days after the effective date of this decision, Sterling Transit Company, Inc. shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 3.

5. That Sterling Transit Company, Inc. is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph 3 of this order, and to notify the Commission in writing upon the consummation of such collections.

6. That, in the event charges to be collected as provided in paragraph 5 of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, Sterling Transit Company, 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 charges and the result of such action, until such charges have been collected in full or until further order of this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Sterling Transit Company, Inc. and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 17th day of FEBRUARY, 1959.

S. Lynn Fox
President

W. E. [unclear]

William D. [unclear]

Theodore [unclear]

Everett M. [unclear]
Commissioner's