

**ORIGINAL**

Decision No. 59321

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
rates and practices of ARNOLD O.  
KAMRATH.

Case No. 6288

Calhoun E. Jacobson and Arnold O. Kamrath, for  
respondent.  
Hugh N. Orr, for the Public Utilities Commission  
staff.

O P I N I O N

A public hearing was held in this matter on October 6, 1959, at Oxnard, California, before Examiner Grant E. Syphers. On that date evidence was adduced and the matter submitted. It now is ready for decision.

Respondent conducts trucking operations under authority of Radial Highway Common Carrier Permit Number 56-1434, dated February 16, 1951. This investigation is concerned with whether or not he has acted in violation of the provisions of Sections 170-E and 180-F of Minimum Rate Tariff No. 8 by extending both split pickup and split delivery service to improperly consolidated shipments and whether the respondent has acted in violation of the provisions of Section 255-A of Minimum Rate Tariff No. 8 by failing to obtain or to issue "documents indicating the precise points of origin and delivery of products transported and other information necessary to an accurate determination of the applicable minimum rate and charges."

The testimony introduced by the staff discloses thirteen instances of transportation performed during the period from April 27, 1958, to May 22, 1958, which allegedly are in violation of the tariff provisions heretofore mentioned.

Items 170-E and 180-F of Minimum Rate Tariff No. 8 were in effect from September 10, 1953, to July 2, 1958, and, accordingly, covered the period during which the foregoing thirteen instances of transportation occurred. Item 170-E provides charges for transportation of split-pickup shipments, but further specifically states, "The provisions of this item shall not apply: (1) if split-delivery service is to be accorded ... ." Item 180-F provides charges for transportation of split-delivery shipments and also specifically states, "The provisions of this item shall not apply: (1) if split-pickup service has been accorded ... ." In other words, it is clear that the charges provided in these items cannot be used for a shipment involving both split-pickup and split-delivery service.

The thirteen instances of transportation previously referred to are set out in Exhibit No. 1. The first seven are similar instances in that each has two or more points of origin as well as several points of destination. This same situation is true for shipments eight to thirteen, and, additionally, these last six shipments were started as a result of teletype orders.

The testimony presented to describe Exhibit No. 1 indicates that the records do not disclose the exact points at which the shipments were picked up, although they do name the various shippers involved and also the various consignees. Generally speaking the pickups were made in the areas of Oxnard and Saticoy and the deliveries were to various points in San Francisco. The respondent

contended that these thirteen shipments were not instances of split pickups inasmuch as the various shippers brought these shipments to one point and the respondent picked them up at that point. However, he did admit that he had hauled shipments involving split pickups and split deliveries in the past and had taken advantage of both Items 170-E and 180-F in the billing, but that he was no longer engaging in such practices.

The testimony of staff witnesses was unqualified to the effect that respondent had admitted to them that he had made split pickups in each of the thirteen instances described in Exhibit No. 1.

Item 255-A of Minimum Rate Tariff No. 8 was in effect from September 10, 1953, to July 12, 1958, during which period the thirteen shipments described in Exhibit No. 1 were transported. This item provides that the shipping document issued by the carrier shall contain certain specific information, including the point of origin and point of destination. It is clear that the shipping documents contained in Exhibit No. 1 do not contain all of the information required by Item 255-A. In response to this the respondent took the position that it was not necessary to show the specific points of origin and destination since the names of the shippers and consignees constituted sufficient identification of these points.

A consideration of all of the testimony adduced herein leads us to find that the respondent has not followed the requirements of Item 255-A of Minimum Rate Tariff No. 8. It should be noted that Item 255-B, which superseded Item 255-A, is now in effect and contains substantially the same requirements for the contents of shipping documents.

As to the alleged violations of Items 170-A and 180-F, we conclude that there is some doubt as to whether or not respondent actually violated these provisions in the thirteen instances listed in Exhibit No. 1. There was testimony presented by a broker who controlled the shipment of all of these items, and he testified that it was necessary to bring many of the items which, incidentally, are shipments of fresh vegetables and produce, into a central vacuum-cooled plant. He further stated that the shippers themselves bring these items to this vacuum-cooling plant, and the trucker picks them up there. The only evidence in this case tending to indicate that split pickups were involved is the alleged admission of respondent made to the Commission representative. However, the respondent testified in this proceeding that he had not made split pickups as to these thirteen shipments.

We are not entirely satisfied with respondent's position in this matter because, taking the most liberal view thereof, he appeared, at one time or another, to be confused. Either he was not correct when he advised the Commission representative that he did make split pickups for these thirteen shipments, or else he was not correct in his testimony presented in this hearing. However, since this is an investigation proceeding and involves penalties, we will give the respondent the benefit of any reasonable doubt. Therefore, we now find that the evidence in this record is insufficient to warrant the conclusion that the thirteen shipments here involved were in violation of Items 170-E and 180-F.

However, it is clear, and we find, that respondent is in violation of Item 255-A in that he has not placed sufficient information upon the shipping documents.

In the light of all of this record, we find that the respondent should be ordered to cease and desist from any violations of Minimum Rate Tariff No. 8, and likewise that his operating authority should be suspended for three days. However, there is insufficient evidence to justify an order requiring respondent to collect any undercharges.

O R D E R


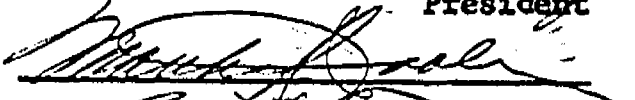

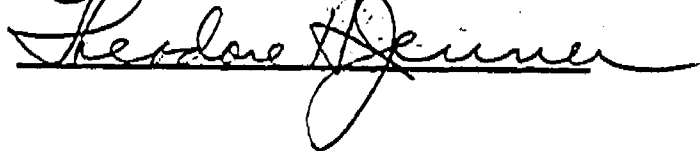
An order of investigation having been instituted, public hearing having been held thereon, the Commission being fully advised in the premises and having made the foregoing findings,

IT IS ORDERED that Arnold O. Kamrath, an individual, be, and he hereby is, ordered and directed to cease and desist from any and all unlawful operations and practices in connection with the transportation of property subject to the rules and regulations of this Commission.

IT IS FURTHER ORDERED that Radial Highway Common Carrier Permit Number 56-1434, issued to Arnold O. Kamrath, be suspended for three days, beginning on the first Monday following the effective date of this order, and that during such three-day period respondent shall conduct no operations under said permit.

The Secretary of this Commission is directed to cause personal service of a certified copy of this order to be made upon Arnold O. Kamrath, and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 1st day of December, 1959.

  
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President  
  
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Commissioners

EVERETT C. McKEAGE  
President  
MATTHEW J. DOOLEY  
C. LYN FOX  
THEODORE E. JENNER  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.