

ORIGINAL

Decision No. 59522

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, and practices of BATTEATE
LIVESTOCK TRANSPORTATION COMPANY,
INC., a California corporation.

Case No. 6310

Bruce Geernaert of Berol & Silver, for respondent.
Cyril M. Saroyan, for the Commission staff.

O P I N I O N

On July 14, 1959, the Commission issued an order of investigation into the operations, rates and practices of Batteate Livestock Transportation Company, Inc., a California corporation, which is engaged in the business of transporting livestock over the highways for compensation as a highway common carrier.

Pursuant to said order, public hearings were held on November 12 and 13, 1959, in San Francisco, before Examiner Rowe. The matter was submitted on the latter date after oral argument.

The purpose of the investigation is to ascertain whether the respondent violated Sections 494 or 532 of the Public Utilities Code by assessing and collecting less than the charges specified in Western Motor Tariff Bureau, Inc., Agent Livestock Carriers Local Freight Tariff No. 1, W. J. Knoell, Issuing Officer; Cal. P.U.C. No. 5, hereinafter called respondent's tariff, for the transportation of livestock, and may have failed to adhere to other rules and regulations established in said tariff.

Other purposes stated for such investigation were whether respondent may have failed to rate shipments separately in violation

of Item 50B, failed to obtain public weighmasters' certificates required by Item 120, or in the absence of such certificates failed to notify the Commission thereof as required by said Item 120, failed to charge for entire weights, and based charges on weights less than shown by such certificates.

From the evidence of record the Commission finds that in 16 instances respondent's method of rating was incorrect and resulted in undercharges as follows:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Amount of Undercharge</u>
05662	11/12/58	\$ 3.39
05647	11/ 6/58	14.13
05313	10/22/58	34.13
05224	10/ 5/58	22.47
06186	12/18/58	27.81
05105	10/ 3/58	16.64
05049	10/ 3/58	16.64
05031	10/ 3/58	25.09
05050	10/13/58	23.40
06184	12/18/58	25.59
04754	9/19/58	43.26
04505	9/ 5/58	5.89
05822	11/24/58	24.55
05578	11/ 3/58	14.79
05767)	11/18/58	31.35
05768)		
05656	11/10/58	<u>17.00</u>

Total undercharges \$346.13

From the above the Commission finds that respondent, in the sixteen instances above enumerated, has violated Section 494 and Section 532 of the Public Utilities Code by failing, as above stated, to adhere to the rules and regulations in said tariff. The Commission further finds that respondent has, on several occasions, failed to obtain the public weighmasters' certificate required by Item 120, and in the absence of said certificate has failed to comply with the requirements of said Item 120 to properly notify the Commission thereof and has failed to assess and charge the specified weights required by Item 123 of said tariff.

A highway common carrier is required to adhere strictly to its tariff and it must exercise effective supervision and control over its dispatchers, drivers and rate clerks to effect this purpose.

Therefore, it is the Commission's conclusion that respondent's operating authority should be suspended for a period of three days, commencing on the first Monday after the effective date of this order.

Respondent will be required presently to examine its records for the purpose of ascertaining if additional incorrect charges have been made.

Respondent will be ordered to cease and desist from future violations of its tariff and it will be ordered to collect the undercharges hereinabove found. No reason has been made apparent why it should be relieved from collecting all undercharges.

O R D E R

Public hearings having been held herein, the matter having been submitted, and the Commission finding and concluding as hereinabove set forth, now therefore,

IT IS ORDERED:

1. That respondent's motion to dismiss is denied.

2. That the certificate of public convenience and necessity to operate as a highway common carrier issued to Battate Livestock Transportation Company, Inc., is suspended for a period of three days, commencing on the first Monday after the effective date of this order.

3. That respondent shall examine its records for the period from January 1, 1959 to the present time for the purpose of ascertaining if any additional undercharges or overcharges have occurred other than those mentioned in this decision.

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

5. That respondent is hereby directed to take such action as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, and to collect the amounts of any undercharges or refund the amounts of any overcharges found after the examination required by paragraph 3, and to notify the Commission, in writing, upon the consummation of such collections and refunds.

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, respondent 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 Batteate Livestock Transportation 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 12th day of January 1960

Ernest W. Rogers
 President

E. J. [unclear]

William [unclear]

E. J. [unclear]

Theodore [unclear]
 Commissioners