

ORIGINALDecision No. 59683

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of GARIBALDI
EQUIPMENT CO., INC., a California
corporation, doing business as
GARIBALDI BROS. TRUCKING CO.

Case No. 6276

John C. Allen, for Garibaldi Equipment Co., Inc.,
respondent.
Elmer J. Sjostrom, for the Commission staff.

O P I N I O N

This Commission, on June 2, 1959, issued an order of investigation into the operations, rates and practices of Garibaldi Equipment Co., Inc., which was engaged in the business of transporting livestock over the public highways for compensation. Pursuant to said order, a public hearing was held on October 30, 1959, at Los Angeles, before Examiner Wilson E. Cline, at which time evidence was presented and the matter was taken under submission.

Purpose of Investigation

The purpose of this investigation is to determine whether respondent has violated Section 494 or Section 532 of the Public Utilities Code by charging, demanding, collecting or receiving different compensation for the transportation of livestock or for any services in connection therewith than the applicable rates, tolls and charges specified in Western Motor Tariff Bureau, Livestock Carriers Local Freight Tariff No. 1 and by failing to adhere to various rules and regulations of said tariff, particularly Items Nos. 50-B, 130-D, 140-D, 161, 162 and 165-A thereof, all as more specifically set forth in the order instituting investigation.

Findings and Conclusions

Upon the evidence of record the Commission finds that:

Respondent is engaged in the business of transporting livestock over the public highways for compensation as a highway common carrier pursuant to certificate of public convenience and necessity issued by this Commission to respondent by Decision No. 52124, dated October 25, 1955, in Application No. 37205.

Respondent also holds Radial Highway Common Carrier Permit No. 19-23475, Highway Contract Carrier Permit No. 19-23476, and City Carrier Permit No. 19-38883.

Respondent assessed and collected charges less than the applicable charges prescribed in Southwestern Motor Tariff Bureau, Livestock Carriers Local Freight Tariff No. 1, Cal. P.U.C. No. 5, J. L. Beeler, Agent, Series, which resulted in undercharges as follows (from Exhibits Nos. 1 and 2):

<u>Respondent's Freight Bill Number</u>	<u>Date</u>	<u>Amount of Undercharge</u>
40084	4/ 4/58	\$ 7.65
40085	4/ 7/58	10.45
40206	4/ 8/58	23.13
40065	4/ 8/58	59.58
40288	4/10/58	68.95
40355	4/14/58	1.50
40442	4/21/58	12.08
40561	4/21/58	17.00
40721	4/25/58	18.16
40614	4/24/58	97.65
40673	4/29/58	27.50
40726	4/29/58	6.89
40318	5/ 1/58	48.08
40492	5/ 1/58	20.12
41183	5/ 8/58	24.77
41420	5/12/58	15.52
41475	5/14/58	6.71
41349	5/20/58	12.44

The total undercharges for the above shipments amount to \$478.18.

In the performance of various transportation services hereinabove set forth and as more particularly appearing in Exhibits Nos. 1 and 2 of record herein, respondent has violated and failed to comply with the provisions of Sections 494 and 532 of the Public Utilities Code by failing to comply with various rules and regulations of said Southwestern Motor Tariff Bureau, Livestock Carriers Local Freight Tariff No. 1, Cal. P.U.C. No. 5, J. L. Beeler, Agent, Series (on and after June 15, 1958, Western Motor Tariff Bureau, Livestock Carriers Local Freight Tariff No. 1) in the transportation of livestock, in that respondent (1) failed to rate shipments separately in violation of Item 50-B; (2) failed to assess applicable split pickup and split delivery charges in violation of Items 130-D and 140-D; (3) failed to observe shipping document requirements of Item 161, and (4) failed to collect freight charges within the credit period specified in Item 165-A.

The Commission having found the facts as hereinabove set forth and concluding that respondent has violated Sections 494 and 532 of the Public Utilities Code, makes its order as follows:

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED that:

1. Highway Common Carrier Certificate of Public Convenience and Necessity, Decision No. 52124, Radial Highway Common Carrier Permit No. 19-23475, Highway Contract Carrier Permit No. 19-23476 and City Carrier Permit No. 19-38883 issued to Caribaldi Equipment Co., Inc., respondent herein, are hereby suspended for five consecutive days starting at 12:01 a.m. on the second Monday following the effective date of this order.

2. Respondent shall post at 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, notices to the public stating that respondent's operating authority has been suspended by the Commission under this order for a period of five days; that within five days after such posting, respondent shall file with this Commission copies of such notices together with affidavits setting forth the dates and places of posting thereof.

3. Respondent shall examine its records for the period from May 21, 1958 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

4. Respondent shall take such action as may be necessary to collect undercharges, both those set forth in the foregoing opinion and those, if any, found during the examination ordered by paragraph 3 of this order.

5. Within one hundred twenty days after the effective date of this order, respondent shall report in writing to this Commission the undercharges if any, found as a result of the examination ordered by paragraph 3 of this order and the results of its efforts to collect undercharges as required by paragraph 4 hereof. Thereafter, respondent shall submit, in writing, on the first Monday of each month, a report of undercharges remaining to be collected and the action taken to collect such charges, 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 on respondent and this order shall be effective twenty days after completion of such service.

Dated at San Francisco, California, this 16th day of February, 1960.

Ernest R. Page
President
John Mitchell
William Kosh
C. H. Fox
Theodore Jenner
Commissioners