

Decision No. 59975

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 VALLEY
LIVESTOCK TRANSPORTATION SERVICE,
INC., a California corporation.

Case No. 6074

Robert G. Baker, for respondent.

Elmer Sjostrom, for the Commission staff.

OPINION ON REHEARING

By Decision No. 57804, dated December 30, 1958, in Case No. 6074, this Commission suspended the operating authorities of Valley Livestock Transportation Service, Inc., for a period of five days and ordered the respondent to re-examine its records for the period from May 1, 1957, to February 20, 1959, and collect any undercharges found.

The respondent filed a Petition for Rehearing on January 14, 1959, which was denied on March 24, 1959, by Decision No. 58160. This decision was served on the respondent on April 1, 1959, making the effective date of the decision April 21, 1959.

On April 14, 1959, the respondent filed a document entitled "Petition for Further Reopening and Further Hearing and for Stay of Order (Decisions Nos. 57804 and 58160)". This petition was granted by a Commission Order dated April 21, 1959, and titled "Order Reopening for Further Hearing and Suspending Operative Effect of Decision No. 57804."

The rehearing was held on March 3, 1960, in San Francisco, before Examiner Edward G. Fraser, at which time further evidence was received.

The president of respondent was the only witness called. He testified that he was out of the country when the errors in rating were made which are the basis of the present case. During his absence, the rating was handled by his rate clerk and by an inexperienced assistant, who may have rated the defective freight bills. About 2,000 bills were rated during the period in which the undercharges occurred.

The witness stated that the respondent now employs 35 people and operates both intrastate and interstate. If it is forced to suspend operations for an entire week, several customers may be permanently lost, causing a serious diminution of respondent's annual revenue.

Penalty

Upon review of all the evidence adduced at the original hearing and rehearing we believe that the penalty to be currently imposed should be reduced from five to three days. This reduction in penalty can be justified only if there is provision for the detection and punishment of any further violations. We hold that a suspension of all operating authorities for seven additional days should be imposed on the respondent if any further violations occur during a period of one year from the date of issuance of this decision.

During this one-year period, respondent's operations will be carefully examined by the Commission to ascertain whether it is complying with all orders, rules and regulations of the Commission.

If, at the end of the one-year period, the Commission is satisfied that respondent is complying with all such orders, rules, and regulations, the deferred portion of said suspension will be vacated without further order of the Commission. However, if the Commission finds at any time during the one-year period that respondent is failing to comply with all such orders, rules, and regulations, the additional seven-day period of suspension will be imposed, together with whatever additional penalty the Commission deems necessary. In addition, this carrier will be ordered to collect the undercharges hereinbefore found. Furthermore, respondent will also be directed to examine its records from May 1, 1957, to the present time in order to determine whether any additional undercharges have occurred, and to file with the Commission a report setting forth the additional undercharges, if any, it has found. Respondent will also be directed to collect any such additional undercharges.

The Commission having considered the pleadings and briefs, the evidence adduced at both hearings and the allegations of the Petition for Rehearing and the Petition for Further Reopening and Further Hearing and for Stay of Order, finds that Decision No. 57804, dated December 30, 1958, in Case No. 6074, should be amended to the extent set forth in the following order.

ORDER ON REHEARING

An order instituting investigation having been filed, public hearing held, a petition for rehearing filed, further hearing held, and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that

(1) Ordering paragraph 3 of Decision No. 57804, dated December 30, 1958, be and it is, amended to read as follows:

3. All operating authority of Valley Livestock Transportation Service, Inc., including both certificates of public convenience and necessity and permits issued to it by this Commission are hereby suspended for a period of ten days. However, execution of seven days of said suspension is hereby deferred and suspended pending further order of the Commission. If no further order of the Commission is issued affecting said suspension within one year from the date of issuance of this decision, the unexecuted period of suspension shall be vacated. The three-day period of suspension will commence at 12:01 a.m. on the second Monday following the effective date of this order.

(2) As herein amended, Decision No. 57804 is continued in full force and effect.

(3) 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 the completion of such service.

Dated at San Francisco, California, this 19th day of April, 1960.

[Signature]
President

[Signature]

[Signature]

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Commissioners