

ORIGINALDecision No. 60007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 rates and practices of SHIRLEY) Case No. 6309
 ROBERTSON, doing business as SHIRLEY)
 ROBERTSON TRUCKING.)

T. E. Depew, for Shirley Robertson,
 respondent.
J. Calvin Simpson and Hugh N. Orr, for
 the Commission Staff.

O P I N I O N

This is an investigation on the Commission's own motion into the operations, rates and practices of Shirley Robertson, doing business as Shirley Robertson Trucking.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis on November 24, 1959 at Merced and on February 10, 1960 at San Francisco.

The purpose of this investigation is to determine, with respect to certain specified transportation, whether respondent:

1. Has violated Sections 3664 and 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed by Minimum Rate Tariff No. 2.

2. Has violated Section 3737 of the Public Utilities Code by failing to adhere to provisions and requirements in Item 255-C(1) of Minimum Rate Tariff No. 2, governing the issuance of shipping documents.

Respondent concedes that the violations occurred.

Based upon the evidence of record in this matter, the Commission makes the following findings and conclusions:

1. At all times herein mentioned respondent held, and respondent now holds, Radial Highway Common Carrier Permit No. 20-682.
2. At all times here involved respondent had been served with the Commission's Minimum Rate Tariff No. 2 and all supplements thereto as well as the Commission's Distance Table No. 4 and all supplements thereto.
3. Each of the following shipping documents issued by respondent failed to contain information required by Item No. 255-C of the Commission's Minimum Rate Tariff No. 2:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Freight Bill No.</u>	<u>Date</u>
1704	5/ 1/58	3104	9/27/58
4755	5/ 7/58	3105	9/27/58
4756	5/14/58	0885	5/25/58
4757	5/17/58	10156	6/15/58
4893	8/ 8/58	4947	7/12/58
4894	8/ 8/58	10596	7/20/58
		10456	7/21/58
1663	8/ 8/58	4931	6/10/58
3303	8/23/58	5093	6/23/58
3345	9/23/58	5094	6/24/58
3346	9/23/58	4945	7/ 7/58
3101	9/26/58	10460	8/ 4/58
3102	9/26/58	10188	8/19/58
3103	9/27/58	4804	3/ 4/58

4. During the year 1958, respondent transported under authority of his radial highway common carrier permit shipments between various points in the State of California upon which improper charges were assessed. A list of said shipments including the

charges actually assessed as well as the charges the Commission finds should have been assessed as required by law, is as follows:

<u>Frt. Bill No.</u>	<u>Date of Shipment</u>	<u>Weight</u>	<u>Charge Assessed by Resp.</u>	<u>Correct Charge</u>	<u>Amt. of Undercharge</u>
1704	5/ 1/58	47,350	\$ 94.70	\$106.40	\$ 11.70
4755	5/ 7/58	51,040	102.08	114.68	12.60
4756	5/14/58	48,910	97.82	109.90	12.08
4757	5/17/58	52,000	104.00	116.84	12.84
4893	8/ 8/58	45,000	155.25	202.50	47.25
4894	8/ 8/58	49,920	152.26	199.68	47.42
1663	8/ 8/58	50,080	152.74	200.32	47.58
3303	8/23/58	46,240	154.90	189.58	34.68
3345	9/23/58	44,970	107.92	130.41	22.49
3346	9/23/58	6,000	15.30	42.60	27.30
3101	9/26/58	26,010	79.33	114.00	34.67
		(as.min.30,000)			
3102	9/26/58	26,010	79.33	108.00	28.67
		(as.min.30,000)			
3103	9/27/58	12,000	34.20	51.60	17.40
3104	9/27/58	12,000	30.00	54.00	24.00
3105	9/27/58	22,500	64.13	81.00	16.87
0885	5/25/58	36,700	154.14	164.93	10.79
10156	6/15/58	37,900	159.18	176.00	16.82
		(as.min.40,000)			
4947	7/12/58	40,060	168.25	176.26	8.01
10596	7/20/58	39,400	165.48	176.00	10.52
		(as.min.40,000)			
10456	7/21/58	36,320	152.54	176.00	23.46
		(as.min.40,000)			
4931	6/10/58	41,220	133.97	167.60	33.63
5093	6/23/58	44,840	159.18	165.91	6.73
5094	6/24/58	48,860	173.45	180.78	7.33
4945	7/ 7/58	41,400	173.88	182.16	8.28
10460	8/ 4/58	53,620	163.54	197.94	34.40
10188	8/19/58	49,200	150.06	181.62	31.56
4804	3/ 4/58	44,580	276.40	315.44	39.04
Total Undercharges					\$628.12

5. Prior to the events here under consideration, respondent was, on two separate occasions, instructed by members of the Commission's staff in the proper method of preparing shipping documents and respondent was on several occasions told he was not in certain instances charging the correct rates provided for in Minimum Rate Tariff No. 2.

6. Respondent violated Sections 3664 and 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property as a radial highway common carrier than the minimum charges prescribed in the Commission's Minimum Rate Tariff No. 2.

7. Respondent violated Section 3737 of the Public Utilities Code by issuing shipping documents which failed to comply with the provisions of Item 255-C of Minimum Rate Tariff No. 2.

8. Respondent's operating authority should be suspended for a period of fifteen days with the execution of ten of said days deferred for a period of one year. If at the end of the period of one year the Commission is satisfied that respondent is complying with the orders, rules and regulations of this Commission the deferred portion of said suspension will be vacated without further order of this 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 ten-day period of suspension will be imposed together with whatever additional penalty the Commission deems necessary.

9. Respondent should be ordered to collect the undercharges hereinabove found and to examine his records from January 1, 1959 to the present time for the purpose of ascertaining whether additional undercharges exist.

O R D E R

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

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 20-682 issued to Shirley Robertson is hereby suspended for a period of fifteen

consecutive days; provided, however, that the execution of ten days of said suspension is hereby deferred pending further order of this Commission. If no further order of this Commission is issued effecting said suspension within one year from the date of issuance of this decision, the unexecuted portion of the suspension shall be automatically vacated. The executed period of suspension will commence at 12:01 a.m. on the second Monday following the effective date of this order.

2. Shirley Robertson shall post at his 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, a notice to the public stating that his radial highway common carrier permit has been suspended by the Commission for a period of five days. Within five days after such posting Shirley Robertson shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

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

4. Within ninety days after the effective date of this decision, Shirley Robertson shall file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 3.

5. Shirley Robertson 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. 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, Shirley Robertson 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, until such charges have been collected in full or until further order of this Commission.

7. Shirley Robertson is ordered to comply with the provisions of this Commission's Minimum Rate Tariff No. 2 with respect to the proper preparation and issuance of the shipping documents.

The Secretary of the Commission is directed to cause personal service of this order to be made upon Shirley Robertson and this order shall be effective twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 26th day of April, 1960.

President

Commissioners