

ORIGINALDecision No. S1140

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,
 rates and practices of GEORGE H.)
 HAMEL and GENE H. HAMEL, doing)
 business as G. H. HAMEL & SON. }

Case No. 6744

George H. Hamel, in propria persona.Elinore Charles, for the Commission staff.O P I N I O N

On August 2, 1960, the Commission issued an order instituting an investigation on its own motion into the operations, rates and practices of George H. Hamel and Gene H. Hamel, doing business as G. H. Hamel & Son, who are engaged in the business of transporting property over the public highways as a radial highway common carrier. Pursuant to said order, a public hearing was held on October 18, 1960, at San Francisco, before Examiner Martin J. Porter, 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 these respondents have violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a rate less than the minimum established under Minimum Rate Tariff No. 2.

Facts

George H. Hamel and Gene H. Hamel are father and son, operating as a partnership, doing business as G. H. Hamel & Son.

They have a radial highway common carrier permit. Minimum Rate Tariff No. 2 and supplements thereto and Distance Table No. 4 were served on the carrier by the Commission.

Approximately four hundred freight bills and their supporting documents were examined. Twenty such shipments were selected as being representative of respondents' billing practices.

Supplemental information was developed by the Commission staff showing that the point of origin was at a place other than shown on respondents' freight bills.

Based on the documents and supplemental information the Commission staff developed that as to each of the aforementioned shipments undercharges resulted. The undercharges were the result of respondents' failure to rate from the correct point of origin.

The principal commodity hauled by the respondents is grain with the principal shipper being Adams, Schwab and Adams. Seventy-five percent of respondents' business is done during the harvest season which runs approximately from May to November. Respondents offered no defense.

Findings and Conclusions

Based upon the evidence of record, we hereby find and conclude:

1. That respondents are engaged in the transportation of property over the public highways for compensation as a radial highway common carrier pursuant to Radial Highway Common Carrier Permit No. 54-441 issued by this Commission.

2. That respondents assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 2 which resulted in undercharges as shown in Exhibit No. 6.

<u>Freight Bill No.</u>	<u>Date</u>	<u>Charges Assessed or Collected by Respondents</u>	<u>Correct Charge</u>	<u>Undercharge</u>
9002	5/12/59	\$141.13	\$172.18	\$ 31.05
9003	5/13/59	136.60	164.90	28.30
9005	5/15/59	141.71	173.92	32.21
9007	5/16/59	138.30	166.96	28.66
9008	5/17/59	144.79	174.80	36.50
9009	5/19/59	137.37	165.83	28.46
9010	5/19/59	128.92	155.65	26.73
9011	5/20/59	144.93	177.86	32.93
9012	5/20/59	141.27	170.55	29.28
9014	5/21/59	136.29	164.55	28.26
8896	10/17/59	68.45	79.40	10.95
9034	6/5/59	81.70	90.15	8.45
9153	6/14/59	81.98	90.46	8.48
9366	9/18/59	68.43	79.39	10.96
9400	10/13/59	43.53	62.57	19.04
9409	7/23/59	129.64	135.28	5.64
9460	7/24/59	132.45	138.20	5.75
9461	7/27/59	130.06	135.72	5.66
9462	7/28/59	125.43	130.89	5.46
9463	7/29/59	122.75	140.29	17.54

Undercharges for these shipments amounted to \$400.31

3. That, in view of the evidence of record, we find the respondents violated Sections 3664 and 3667 of the Public Utilities Code by charging and collecting a compensation less than the prescribed minimum established by this Commission in Minimum Rate Tariff No. 2.

O R D E R

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

IT IS ORDERED:

1. That Radial Highway Common Carrier Permit No. 57-441 issued to George H. Hamel and/or Gene H. Hamel is hereby suspended

for five consecutive days starting at 12:01 a.m. on the second Monday following the effective date of this order; and that they shall not lease the equipment or other facilities used in operations under this permit for the period of the suspension or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. That George H. Hamel and/or Gene H. Hamel shall post at their 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 their radial highway common carrier permit has been suspended by the Commission for a period of five days; that within five days after such posting George H. Hamel and/or Gene H. Hamel shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. That George H. Hamel and/or Gene H. Hamel shall examine their records for the period from January 1, 1959, to the present time for the purpose of ascertaining if additional undercharges have occurred other than those mentioned in this decision.

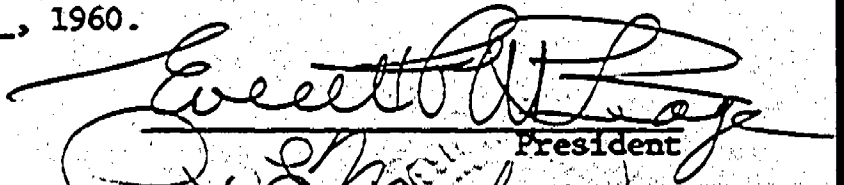
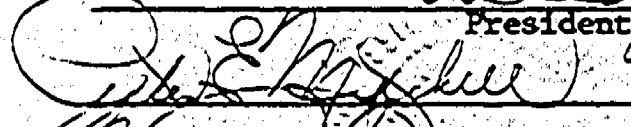

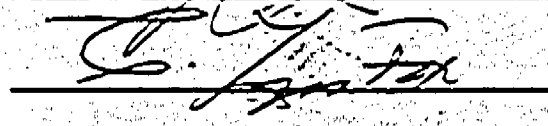
4. That, within ninety days after the effective date of this decision, George H. Hamel and/or Gene H. Hamel shall complete the examination of their records hereinabove required in paragraph 3 and file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. That George H. Hamel and/or Gene H. Hamel are hereby directed to take such action, including legal action, as may be necessary to collect the amount 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 collection.

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, George H. Hamel and/or Gene H. Hamel shall institute legal proceedings to effect collection and 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.

The Secretary of the Commission is directed to cause personal service of this order to be made upon George H. Hamel and Gene H. Hamel and this order shall become effective twenty days after the completion of such service upon them.

Dated at San Francisco, California, this 23rd
day of NOVEMBER, 1960.


President



Commissioners

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