

ORIGINALDecision No. 61255

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,
 rates, and practices of GROSKOPF-
 WEIDER TRUCKING CO., INC., a
 California corporation.

Case No. 6478

J. Richard Townsend, for Groskopf-Weider
 Trucking Co., Inc., respondent.
Elmer J. Sjoström, for the Commission
 staff.

O P I N I O NOrder of Investigation

On May 17, 1960, the Commission instituted its order of investigation into the operations, rates and practices of Groskopf-Weider Trucking Co., Inc., a radial highway common carrier and a highway contract carrier, for the purpose of determining:

1. Whether respondent has acted in violation of Section 3567 of the Public Utilities Code by charging, demanding, collecting or receiving for the transportation of property sums less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 2.
2. The order which should be issued by this Commission in the event it be found that any of the alleged violations have occurred.

Public Hearing

Pursuant to the order of investigation, a public hearing was held in San Francisco before Examiner Edward G. Fraser on October 11, 1960.

Stipulations

It was stipulated that the respondent is a California corporation; that it holds Radial Highway Common Carrier Permit

No. 49-1018 and Highway Contract Carrier Permit No. 49-1590, both issued on April 30, 1958; that the respondent has received copies of Minimum Rate Tariff No. 2 and Distance Table No. 4; and that it also received all supplements thereto published to date.

Evidence Presented by the Staff

A representative of the Transportation Division of the Commission testified that he made an investigation of the freight bills and other records of the respondent covering operations performed during the months of April, May and June, 1959. The witness checked about 1,500 freight bills and made copies of 28, which were forwarded to the Rate Analysis Unit of the Commission for further study. The witness stated that dates were apparently changed on several of the copies of weighmaster certificates in the files of the respondent (Parts 2, 13, 14, 27, Exhibits Nos. 1 and 2).

On Part 2 (Freight Bill No. 18655) Weighmaster Certificates Nos. 00549 and 18476 in the records of respondent, appear to be dated 6-28-59. Since they seemed to have altered dates, the witness obtained photostat copies of the originals from the public weigh stations concerned. These copies show Certificate 00549 with a date of 6-22-59 and Certificate 18476 as being issued on 6-24-59. The respondent's copy of Weighmaster Certificate No. 18049 shows a date of 5-18-59. The copy from the weighmaster's records is labeled 5-11-59. (Part 13, Exhibits 1 and 2.) On Part 14 (Freight Bill 18233), respondent's copy shows 5-12-59 and the staff copy 5-7-59. Respondent has a date of 4-27-59 on Freight Bill 20725 (Part No. 27) and the weighmaster certificate for the load has 4-17-59. Freight Bill 7713 (on Part 27) is dated April 24, 1959, as is Weighmaster Certificate 18001 and Master Bill No. 17907. The delivery ticket (No. 20726 is dated 4-27-59 and shows the load was delivered to a

consignee in the Los Angeles area. The witness stated that it was difficult to determine exactly when a load was actually hauled on several of the counts charged due to the discrepancy in dates on the available records.

The Commission's rate expert explained Exhibit No. 2, and stated that the rates collected by the respondent for the transportation performed under Parts 1 to 28 are less than the minimum rates prescribed by Minimum Rate Tariff No. 2.

The rate expert stated that the normal undercharge was increased on most parts of Exhibit No. 2 (excepting 11, 17, 20, 22 and 26) by a loading and/or unloading charge imposed by Item 240-N (on Seventeenth Revised Page 26, effective December 8, 1958) of Minimum Rate Tariff No. 2. This item provides that the charge must be added to freight bills which do not carry the notation "power loaded and unloaded" (Item 240-N, Note 1, Sub. B.3). The documents in Exhibit No. 1 do not have the required stamp.

Parts 10, 12, 14 and 21 were contested by the respondent, so the witness explained these parts were rated according to the multiple lot provisions of Minimum Rate Tariff No. 2 (Item 85, MRT-2), which requires the master bill of lading to be issued before, or on the date of, the first pickup and all pickups to be within two days of 12:01 a.m. of the date of the first pickup. The pickups in Part 10 were on June 17 and June 19. This places them more than 48 hours apart according to the tariff and they must be rated as separate shipments. If the pickups were on June 18 and 19, however, it would be correct to combine both pickups as one load. This would eliminate the undercharge. Part 12 seems to have both pickups on May 11 and the master bill dated May 11, but the weight tags show pickups on or before May 9 and 10. If the master bill

is not issued before or at the time of the first pickup, each pickup is rated as a separate shipment. The master bill issued under Part 14 has a date of 5-12-59. The two minor bills appear to be dated on 5-12-59 also, but the witness obtained other dates from the weighmaster certificates and the signed delivery receipts. There are two copies of Weighmaster Certificate No. 36919 on Freight Bill 31559, one copy with a date of 5-12-59, which looks as though it may have been altered, and the other dated 5-7-59. The delivery receipts show an apparent delivery date of May 7 on the first load and May 14 on the second. On Part 21 the master bill (No. 17985) is dated April 19, 1959. Sub Bill 21075 is dated April 16, 1959, and the other bill (21625) on April 20, 1959. The weighmaster certificate with No. 21075 has a date of April 15, 1960 and the weight tag with 21625 is dated April 20, 1959. The witness rated each individual load under Parts 10, 12, 14 and 21 as a separate shipment. The respondent combined all loads under each master bill and made it a single haul for rating purposes.

Position of the Respondent

The respondent's case was presented by Mrs. Groskopf, who testified she performed the double function of office manager and rate clerk.

The witness stated that the undercharges alleged by the staff are admitted, with two reservations. The respondent is contesting the additional loading and unloading charges imposed by the staff, due to respondent's failure to stamp "power loaded and unloaded" on its freight bills. Respondent is also denying any undercharge on Parts 10, 12, 14 and 21.

The witness stated that the respondent issued new freight bills on October 4, 1960, to all the shippers concerned in Parts 1

through 28, less 10, 12, 14 and 21. The new bills quote the minimum rates set out by the staff in Exhibit No. 2, less the alleged loading and unloading charge. The amount due under one of these new bills has already been received. All of these amended bills carry the notation "power loaded and unloaded".

The witness stated that the transportation involved in the freight bills of Exhibits Nos. 1 and 2 was performed during April, May and June, 1959. The witness employed two girls to do the rating in June and July while she was on vacation. She was training them in April and May and most of the rating during the entire period was done by the trainees. The witness testified that all of respondent's loads are power loaded and unloaded. They do not favor manual loading because of the time interval involved. Their freight bills were not stamped "power loaded and unloaded" due to an error on the part of the inexperienced rate clerks.

The second factor which contributed to those undercharges which are admitted by the respondent is the difficulty of determining whether a consignee is on or off rail. Respondent was depending on its drivers at the time the undercharges occurred. Because of frequent errors the respondent now writes to its consignees direct to inquire if they are on or off rail.

The respondent alleges that the two pickups in Part 10 (Exhibits 1 and 2) were made on June 18 and 19, rather than on the 17th and 19th, as claimed by the staff. A set of loading tags were introduced in evidence as Exhibit No. 3. These tags were dated from June 13 to 18 and were presented to show that the first truck could not have left on June 17, since it was still being loaded on June 18. Respondent's witness explained Part 12 by saying the date

on the master bill is in error. It is likely that the bill may have been dated on delivery rather than pickup. This occasionally occurs, due to drivers dating their records on delivery, rather than pickup.

The witness stated she was sure the pickups under Part 14 were on May 5 and 6. The deliveries were on May 7 and May 13. The last load was delayed several days at the mill. She had no explanation for the apparent alteration of the date on the weighmaster certificate.

The witness introduced a set of documents as Exhibits Nos. 4 and 5 to show when the two loads scheduled under Part 21 were actually picked up. The witness stated that the pickups were on April 15 and 16, in her opinion. She also stated that the shipper made up the master freight bill on this count.

The witness stated that the respondent is now operating with 30 employees, 18 tractors, 38 trailers, and 3 dollies. The respondent grosses \$2,500 a day, or about \$500,000 a year.

Closing Statements

The staff and respondent each made a brief closing statement.

The staff requested this Commission to take official notice of Decision No. 56346, dated March 11, 1958, in Case No. 5951, which is an undercharge case involving this respondent.

The respondent stated that errors were made, but there was no intent to evade the provisions of Minimum Rate Tariff No. 2; also that the respondent is growing and it is difficult, if not impossible, to prevent all errors in rating.

Discussion

The testimony of the respondent's witness was that all loads are power loaded and unloaded. The staff rate expert stated that the extra charge was added merely because the respondent failed

to stamp its freight bills, "power loaded and unloaded". There would be no undercharge if the stamp had been applied. We are therefore convinced that the loading and/or unloading charge should be eliminated. The evidence also shows that the respondent has re-issued all of these bills, with the proper notation stamped on each one.

On Part 10 the evidence seems to indicate a pickup on June 18 and another on June 19. This eliminates the undercharge, since the master bill is dated on June 18. The claimed undercharge in Part 10 will therefore be disregarded.

The undercharges on Parts 12, 14 and 21 are clearly established. Item 85A (effective April 15, 1953, First Revised Page 16-A) of Minimum Rate Tariff No. 2 provides in Section (a), subparagraph 2 thereof, that "a single shipping document for the entire shipment tendered shall be issued prior to or at the time of the first pickup." It appears from the evidence that the loads transported under Parts 14 and 21 also violated the "48 hour" limit within which pickups must be made (Item 85A, 4, MRT-2). The multiple lot provisions of Minimum Rate Tariff No. 2 must be rigidly enforced. A contrary policy would open the door to widespread rate violations and the nullification of several sections of the tariff.

The evidence shows several alterations of weight tags and freight bills. It was crudely done and may have been without the respondent's knowledge, but it appears that an effort was made to match up the sub freight bills so they would appear to be dated with the master bills (Parts 12, 14 and 27, Exhibits 1 and 2). The respondent is advised to carefully check all freight bills in the future. A failure to issue correct freight bills will result in further investigations and severe penalties.

The Commission hereby takes official notice of Decision No. 56346, dated March 11, 1958, in Case No. 5951.

Findings and Conclusions

Upon the evidence of record the Commission finds that:

1. Respondent is a California corporation 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. 49-1018 and as a highway contract carrier pursuant to Highway Contract Carrier Permit No. 49-1590.

2. Respondent assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 2, which resulted in undercharges as follows (from Exhibits Nos. 1 and 2):

<u>Part No.</u> <u>(Exh. 2)</u>	<u>Frt.</u> <u>Bill</u>	<u>Date</u>	<u>Amount</u> <u>Assessed</u> <u>by</u> <u>Respondent</u>	<u>Amount</u> <u>Collected</u> <u>by</u> <u>Respondent</u>	<u>Correct</u> <u>Charge</u>	<u>Amount of</u> <u>Undercharge</u>
1	31491	5/ 1/59	\$168.36	\$168.36	\$ 188.17	◇ 19.81
2	18655	6/28/59	466.61	466.61	600.00	133.39
3	18488	6/18/59	465.21	465.21	600.00	134.79
4	18471	6/15/59	414.63	414.63	488.11	73.48
5	18363	5/20/59	463.64	463.64	600.00	136.36
6	18475	6/ 5/59	477.36	477.36	561.97	84.61
7	31548	5/ 6/59	278.38	278.38	297.46	19.08
8	17994	4/20/59	472.35	472.35	664.00	191.65
9	18048	4/23/59	657.34	657.34	1,071.80	414.46
10	18573	Canceled				
11	31462	4/29/59	300.00	300.00	370.10	70.10
12	18187	5/11/59	420.23	420.23	653.14	232.91
13	18302	5/18/59	448.38	448.38	592.00	143.62
14	18233	5/12/59	465.93	465.93	682.58	216.65
15	17934	4/ 7/59	569.27	569.27	575.67	6.40
16	15120	5/25/59	310.06	310.06	349.95	39.89
17	18181	5/ 8/59	697.75	697.75	1,095.60	397.85
18	18175	4/27/59	458.01	458.01	602.19	144.18
19	31436	4/27/59	281.60	281.60	317.82	36.22
20	17830	4/20/59	286.81	286.81	316.64	29.83
21	17985	4/19/59	441.72	441.72	600.02	158.30
22	31663	5/14/59	111.91	111.91	125.47	13.56
23	18382	5/ 2/59	523.60	523.60	611.51	87.91
24	31313	4/13/59	225.23	225.23	236.38	11.15
25	17986	4/21/59	318.08	318.08	387.90	69.82
26	17891	5/14/59	89.32	89.32	124.22	34.90
27	17907	4/24/59	670.73	670.73	716.09	45.36
28	31950	6/ 8/59	300.06	300.06	362.47	62.41

Total undercharges for the above shipments amount to \$3,008.69

Respondent has acted in violation of Section 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property as a highway permit carrier than the applicable minimum rates and charges required by Minimum Rate Tariff No. 2.

The Commission having found the facts as hereinabove set forth and concluding that respondent has violated Section 3667 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 adduced,

IT IS ORDERED:

1. That Radial Highway Common Carrier Permit No. 49-1018 and Highway Contract Carrier Permit No. 49-1590 issued to Groskopf-Weider Trucking Co., Inc., are hereby suspended for seven consecutive days, excluding Saturday and Sunday, starting at 12:01 a.m. on the second Monday following the effective date of this order; and that respondent shall not lease the equipment or other facilities used in operations under these permits for the period of the suspension or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. That 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, a notice to the public stating that its radial highway common carrier permit and highway contract carrier permit have been suspended by the Commission for a period of seven days; that within five days after such posting respondent 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 respondent shall examine its records for the period from January 1, 1960 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

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

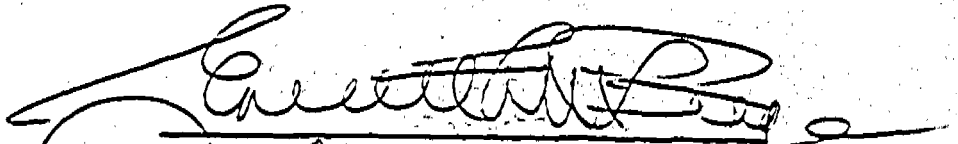
5. That respondent is hereby directed to take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in the preceding opinion, together with any additional undercharges found after the examination required by paragraph 3 of this order, and to notify the Commission in writing upon the consummation of such collections.


6. 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 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 Groskopf-Weider

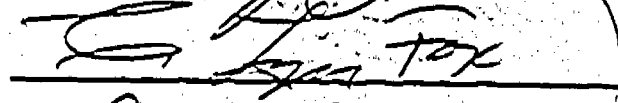
Trucking Co., Inc., and this order shall be effective twenty days after the completion of such service upon the respondent.

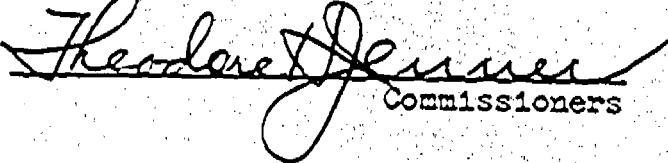
Dated at San Francisco, California, this 28th day of DECEMBER, 1960.



President








Commissioners