

61621

Decision No. \_\_\_\_\_

**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 VERNON  
LIVESTOCK TRUCKING CO., a corpora-  
tion.

Case No. 6264

C. W. L'Ecluse, for Vernon  
Livestock Trucking Co.,  
respondent.

Elmer J. Sjostrom, for the  
Commission staff.

O P I N I O N

On September 27, 1960, this Commission issued its order reopening the proceeding herein. In this order the Commission stated that by Decision No. 59007 herein which became effective October 11, 1959, the respondent Vernon Livestock Trucking Co., a corporation, was ordered to audit its records and report to the Commission any undercharges other than those mentioned in said decision, and take the necessary action to collect such additional undercharges, and that it appeared that respondent may have failed to report additional undercharges and to take action to collect such undercharges as ordered by said decision. The Commission ordered that Case No. 6264 be reopened for the purpose of determining:

1. Whether respondent has failed to comply with the Commission's decision in Case No. 6264;
2. Whether respondent's operating authority should be canceled, revoked or suspended; and
3. Whether any other order or orders should be entered in the lawful exercise of the Commission's jurisdiction.

A copy of Decision No. 59007 and a copy of the order reopening the proceeding were personally served upon Vernon Livestock Trucking Co.

Public hearing in this matter was held before Examiner Wilson E. Cline at Los Angeles on January 19, 1961. At the close of the hearing the matter was taken under submission.

Evidence Submitted by the Commission Staff

A Commission staff witness testified that he checked 1200 freight bills of respondent, issued during the period June 1, 1958 through the month of March, 1960, and that he discovered a total of 323 shipments comparable to the 22 undercharge items set forth in Exhibit No. 8.

Exhibit No. 8 which was introduced into evidence through the testimony of a Commission staff rate expert shows that respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 3-A which resulted in undercharges as follows:

<u>Respondent's Invoice No.</u>	<u>Date of Invoice</u>	<u>Amount of Undercharge</u>
2443	6/10/58	\$ 37.44
2444	6/19/58	33.50
2449	6/5/58	10.29
2474	6/17/58	140.73
2496	6/25/58	64.20
2549	7/7/58	78.29
2670	7/27/58	6.96
2679	7/29/58	89.15
3080	9/11/58	7.99
3310	10/19/58	21.87
3743	12/16/58	11.60
3819	12/19/58	12.37
3830	12/31/58	38.71
3831	12/31/58	28.52
4668	3/7/59	6.45
4934	6/15/59	39.32
4988	6/24/59	78.35
5053	6/30/59	7.83
5288	7/28/59	15.62
6705	1/17/60	103.16
6996	2/16/60	65.94
7189	3/9/60	86.59
<b>Total</b>		<b><u><u>\$984.88</u></u></b>

Evidence of Respondent

The president of the Vernon Livestock Trucking Co., respondent, testified that the undercharges set forth in Decision No. 59007 in this matter have been collected from the shippers. He stated that no additional undercharges had been collected because he thought that the charges for shipments had been properly billed. He further testified that he was not aware that a master agreement was mandatory in order for split pickups to be consolidated, and that any undercharges were the result of mechanical and clerical errors and misunderstandings and not intentional.

Findings and Conclusions

Upon the evidence of record the Commission finds and concludes:

That respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 3-A which resulted in undercharges in the total amount of \$984.88 as set forth above in this opinion.

That respondent did not diligently examine its records for the period from June 1, 1958, to the present time for the purpose of ascertaining if any additional undercharges had occurred other than those mentioned in Decision No. 59007 issued September 15, 1959, herein.

O R D E R

Public hearing having been held and the Commission basing its decision on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 19-51227 and Highway Contract Carrier Permit No. 19-51228 issued to Vernon Livestock Trucking Co., a corporation, are 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 it 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. 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 five

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. Respondent shall re-examine its records for the period from June 1, 1958, to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those specifically set forth in this decision. The Commission records reflecting undercharges on the 323 shipments referred to in the opinion above shall be made available for inspection by the respondent and its officers and employees upon reasonable request.

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

Dated at San Francisco, California, this 7th day of March, 1961.

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President  
*E. J. Fox*  
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*George T. Grover*  
\_\_\_\_\_  
*Frederick B. Holshoff*  
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Commissioners

Everett C. McKeage  
Commissioner ~~Peter E. Mitchell~~, being necessarily absent, did not participate in the disposition of this proceeding.