

ORIGINAL

61734

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates, and practices of JAY CLAUDE
MORSE, doing business as
J. C. MORSE TRUCKING.

Case No. 6994

Jay Claude Morse, doing business as J. C. Morse
Trucking, appeared for himself.
Elinore Charles, for the Commission's staff.

O P I N I O N

This proceeding, instituted by the Commission on its own motion, is an investigation into the operations, rates and practices of Jay Claude Morse, doing business as J. C. Morse Trucking, operating as Petroleum Contract Carrier and City Carrier pursuant to permits Nos. 19-41222 and 19-40077, respectively, which permits at all times hereinafter mentioned have been and now are in full force and effect.

A public hearing was held on January 18, 1961, in Los Angeles, before Examiner Mark V. Chiesa, to determine whether or not said Jay Claude Morse, hereinafter sometimes referred to as respondent, violated Sections 3664 and 3668 of the Public Utilities Code of this State, as charged in the order instituting the investigation in Case No. 6994.

Upon the evidence of record the Commission finds:

That all applicable minimum rate orders were served upon respondent prior to shipments hereinafter noted.

That each of said shipments were shipments of asphalt which originated at the Edgington Oxnard Refinery facility situated 0.7 miles west of Leesdale, in the vicinity of Oxnard, and were delivered to the Exeter Oil Co., Ltd., at Long Beach, or were diverted to Armstrong Cork Co. at South Gate, or to a rail tank car at Long Beach.

That respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 6, and supplements thereto, which resulted in undercharges as follows (Exhibits Nos. 1, 2 and 4):

<u>Delivery Ticket or Shipment No.</u>	<u>Date</u>	<u>Amount of Undercharge</u>
4637-4638	4/4/60	\$ 29.30
1218	4/11/60	16.38
3227	4/11/60	23.74
3694	4/11/60	16.02
3234	4/18/60	54.22
4651	4/18/60	18.82
1381	5/9/60	16.33
2196-2197	5/9/60	31.21
4194	5/9/60	15.99
4195	5/9/60	16.19
1243	5/24/60	28.86
2641	5/24/60	<u>26.39</u>
Total Amount of Undercharges		\$293.45

That the applicable minimum rates and charges for each of said shipments are as set forth in Exhibit No. 4. That respondent did not apply the prescribed rates and charges, but, on the other hand, attempted to cloak the transportation services which he was performing with a false mantle which respondent refers to as a "buying and selling" transaction.

That respondent's contention he was selling asphalt to Exeter Oil Co., Ltd., which he purchased from the Edgington Oxnard Refinery is not corroborated by the evidence of record. The shipping tickets used by respondent (Exhibit No. 1) are not documents or forms such as are ordinarily used by one who is selling his own merchandise to a customer. Nine of the twelve invoices issued by Edgington Oxnard Refinery to J. C. Morse show that the shipments were to be delivered (emphasis added) to Exeter Oil Co., Ltd., of Long Beach. The other three shipments were also delivered to said oil company or diverted by its order.

That in the performance of the transportation services hereinabove set forth, and as more particularly appearing in Exhibits Nos. 1 and 4 of the record herein, respondent has violated or failed to comply with the provisions of Minimum Rate Tariff No. 6 in that he failed to apply or charge the commodity rate, and the pumping service, demurrage, diversion and stop charges all as set forth in Items Nos. 200-H, 100-H, 140-G, and 130-F of said tariff.

The Commission having found the facts as hereinabove set forth and concluding that respondent has violated Sections 3664 and 3668 of the Public Utilities Code and the provisions and requirements of certain items of Minimum Rate Tariff No. 6, makes its order as follows:

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. Petroleum Contract Carrier Permit No. 19-41222 and City Carrier Permit No. 19-40077 issued to Jay Claude Morse, 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 he 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 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 Petroleum Contract Carrier and City Carrier permits 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 examine his 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. Within ninety days after the effective date of this decision, respondent shall complete the examination of his records hereinabove required by paragraph 3 and file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. 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. 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 Jay Claude Morse 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 March, 1961.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners