

ORIGINALDecision No. 61735

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
 rates, and practices of GEM)
 FREIGHT LINES, a California corpo-)
 ration.)

Case No. 7006

Herb Koppl, for respondent.
William C. Bricca and George Kataoka,
 for the Commission staff.

O P I N I O N

On November 1, 1960 the Commission instituted its order of investigation into the operations, rates and practices of Gem Freight Lines, a California corporation, which is engaged in the business of transporting property over the public highways as a radial highway common carrier and as a highway contract carrier. Pursuant to said order, public hearing was held before Examiner Martin J. Porter on January 31, 1961 in San Francisco.

The purpose of the investigation was to determine whether respondent has violated Section 3664 of the Public Utilities Code by charging, demanding or receiving a lesser compensation for the transportation of property than the applicable rates prescribed in Minimum Rate Tariff No. 2, and whether respondent has violated Section 3668 of the Public Utilities Code by means of false billing, classification, weight, weighing or report of weight, or any other device, assisted, suffered or permitted any corporation or person to obtain transportation within this state at rates less than the minimum rates established or approved by the Commission.

The staff presented evidence that a review period of carrier operations from September 1959 to April 1960 was selected.

Approximately 400 freight bills were examined, 17 shipments were selected, and documents and supplemental information for rating purposes were forwarded to the rate analysis unit.

A rating of these shipments disclosed undercharges in each instance. The basic cause for the undercharges was the carrier's rating of these shipments as split pickup shipments and multiple-lot shipments without regard to the time limit imposed by Items 160 and 85 of Minimum Rate Tariff No. 2. The result of this failure to observe the time limit requirements necessitated the split pickup and parts of the multiple-lot shipments being rated separately, producing a higher charge than collected by the carrier.

Further evidence shows that the dates on documents were altered to give the appearance that the time limit requirements provided in the above-mentioned items of Minimum Rate Tariff No. 2 had been observed.

It was stipulated that the carrier had been served with applicable minimum rate tariff, distance table, and modifications and supplements thereto, applicable to the transportation herein involved.

The respondent offered evidence through one of the officers of the corporation that an officer no longer with the corporation did the rating of shipments during the period in question and the witness professed no knowledge of the change in dates on documents. The corporation suffered approximately \$6,000 loss in 1960 and \$800 loss in 1959. The witness testified that the delay in picking up of shipments was for the convenience of the carrier and not caused by shipper action.

Findings and Conclusions

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

1. That respondent is engaged in the transportation of property over the public highways for compensation as a radial highway common carrier and as a highway contract carrier.

2. That 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:

<u>Freight Bill Number</u>	<u>Date</u>	<u>Charge Assessed or Collected by Respondent</u>	<u>Correct Charge</u>	<u>Under Charge</u>
6432	11-16-59	\$ 320.98	\$1,402.57	\$ 81.59
6547	1-12-60	354.21	397.01	42.80
6330	9-25-59	157.10	274.76	117.66
6510	12-29-59	484.45	727.25	242.80
6529	1-15-60	280.84	325.75	44.91
6564	1-22-60	203.72	253.68	49.96
6530	1-14-60	435.86	705.43	269.57
5743	4--5-60	436.21	473.47	37.26
6428	11-12-59	320.99	655.03	274.04
6531	1-14-60	156.30	218.06	61.76
6371	10--8-59	202.23	310.25	108.02
6732	4--1-60	159.30	329.16	168.36
6482	12-10-59	108.42	127.93	19.51
6572	2--3-60	277.51	440.00	162.49
6467	11-23-59	1,115.67	1,278.95	163.28
6466	11-23-59	647.63	846.00	198.37
6519	1-11-60	159.86	242.18	82.32

Undercharges for these shipments amounted to \$2,124.70.

3. That respondent has altered the date on shipping documents which alteration produces a lesser charge to the shipper than that provided in Minimum Rate Tariff No. 2.

ORDER

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

IT IS ORDERED:

1. That the Radial Highway Common Carrier Permit No. 1-8924 and Highway Contract Carrier Permit No. 1-9367 issued to Gem Freight Lines are hereby suspended for ten 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 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 Gem Freight Lines 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 ten days; that within five days after such posting Gem Freight Lines, 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, 1959 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 file with the Commission a report setting forth all undercharges found pursuant to the examination hereinabove required by paragraph 3.

5. That respondent is hereby directed to take such action as may be necessary, including court proceedings, to collect the amounts of undercharges set forth in this decision, 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 3 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 Gem Freight Lines 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.

Gene R. Brown
President

John E. Mitchell

George W. Grover

Frederick B. Hallock
Commissioners