

Decision No. 61774

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
L. A. SILVERIA.

Case No. 7042

Gerald R. Douglas, for respondent.

Sheldon Rosenthal, for the Commission staff.

O P I N I O N

On December 28, 1960 the Commission instituted its order of investigation into the operations, rates and practices of L. A. Silveria, who is engaged in the business of transporting property over the public highways as a radial highway common carrier. Pursuant to said order, public hearing was held before Examiner Martin J. Porter on February 24, 1961 in San Francisco.

The purpose of the investigation was to determine whether respondent has violated Sections 3664 and 3667 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. 3-A, 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 other devices, and thus has 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's operations from October 1959 to April 1960 was selected. Twenty-one shipments were selected; 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 causes for the undercharges were failure to observe correct points of origin and destination of shipments, and not having proper instruction when making more than one pickup as required by Minimum Rate Tariff No. 3-A. The result of these failures required a higher charge when the staff determined the correct point of origin or destination and in the cases where there was not proper documentation pickups had to be rated separately, again producing a higher charge.

Further evidence shows that documents had been altered to give the appearance that fewer head of cattle and lesser weights had been transported, and that thus the requirements of Minimum Rate Tariff No. 3-A had been observed.

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

It was further stipulated that Exhibit No. 4, the rate analysis, prepared from the documents and supplemental information furnished by the field section was correct.

The carrier grossed approximately \$160,000 for the year 1960 and made approximately 3% profit. He has six employees and nine pieces of equipment which are being financed.

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.

2. That respondent assessed and collected charges less than the applicable charges established by this Commission in Minimum Rate Tariff No. 3-A 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>Undercharge</u>
3090	11/16/59	\$ 40.89	\$ 76.83	\$ 35.94
3710	3/ 2/60	120.15	157.01	36.86
3517	3/14/60	78.00	94.32	16.32
3520	3/16/60	87.15	133.25	46.10
3783	3/24/60	76.99	120.08	43.09
3786	3/26/60	91.10	146.97	55.87
3983	4/11/60	104.61	115.65	11.04
3985	4/12/60	86.04	141.66	55.62
4180	4/27/60	124.08	231.10	107.02
2598	11/10/59	111.84	172.00	60.16
3482	1/17/60	44.89	50.12	5.23
3281	12/29/59	52.15	66.00	13.85
3621	2/22/60	42.00	90.00	48.00
3269	2/ 1/60	92.14	99.23	7.09
3913	4/ 6/60	54.00	60.24	6.24
3864	3/21/60	34.00	49.53	15.53
3830	3/23/60	85.10	98.00	12.90
2863	11/ 4/59	45.00	61.00	16.00
3075	11/23/59	13.00	28.98	15.98
3334	12/ 4/59	114.21	134.00	19.79
2528	10/13/59	90.76	117.99	27.23

Undercharges for these shipments amounted to \$655.86

3. That respondent has altered shipping documents, which alterations when used for rating produced lesser charges to the shipper than those provided in Minimum Rate Tariff No. 3-A.

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. 50-3573 issued to L. A. Silveria is 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 he 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 L. A. Silveria 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 radial highway common carrier permit has been suspended by the Commission for a period of ten days; that within five days after such posting, L. A. Silveria 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 his 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 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. 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 file with 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 L. A. Silveria and the effective date of this order shall be twenty days after the completion of such service upon the respondent.

Dated at San Francisco, California, this 4th day of April, 1961.

[Signature]
President
[Signature]
[Signature]
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Commissioners