

ORIGINAL

Decision No. 62074

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
J. L. Talkington Under Section 3667)	
of the Public Utilities Code for)	
Authority to Deviate from the Minimum)	Application No. 43231
Rates and Charges Named in Minimum)	
Rate Tariff No. 2, Which May be)	
Applicable to Transportation Services)	
Performed for Rossman Mill & Lumber Co.))	

OPINION AND ORDER

By this application, filed March 14, 1961, J. L. Talkington seeks authority to waive collection of certain charges applicable on shipments of lumber transported by him as a highway contract carrier. The shipments in question moved in interstate or foreign commerce within the Los Angeles Harbor Commercial Zone during the period from May 1, 1958, to March 20, 1959, inclusive. Rates for transportation within such commercial zones in California, of shipments moving in interstate or foreign commerce, are subject to the jurisdiction of this Commission.

According to the application, applicant transported lumber moving in interstate or foreign commerce within the Los Angeles Harbor Commercial Zone and from that zone to various other points adjacent thereto. On all of these shipments applicant assessed a rate of \$1.00 per 1,000 board feet of lumber under its tariffs on file with the Interstate Commerce Commission. The traffic within the commercial zone is subject to minimum rates prescribed by this Commission which are higher than the rates assessed. For transportation beyond the zone, the rates in applicant's interstate tariff apply.

¹ Los Angeles Harbor Commercial Zone embraces an area in and around Long Beach, Los Angeles Harbor and Wilmington which has been exempted from rate regulation by the Interstate Commerce Commission under Section 203(b)(8) of the Interstate Commerce Act.

The current application stems from instructions to applicant from the Commission staff to collect undercharges on the involved shipments as disclosed by an audit of his records.

Applicant states that the services were performed in good faith under the belief that they were subject to rate regulation by the Interstate Commerce Commission; that he was not aware that the transportation on which the rate relief is sought was subject to the jurisdiction of this Commission until so advised by the Commission's staff; that upon being so informed applicant executed a written agreement with the shipper and assessed minimum hourly rates established by the Commission.

The hourly minimum rates prescribed by the Commission in Minimum Rate Tariff No. 5 applicable to the involved traffic are subject to the condition that prior to the transportation the shipper must enter into a written agreement with the carrier to ship at rates no lower than the hourly rates. In the absence of the written agreement, rates in cents per 100 pounds named in Minimum Rate Tariff No. 2 apply. The latter rates result in higher charges on the involved traffic than the hourly rates prescribed in Minimum Rate Tariff No. 5. Had the written agreement to which applicant refers been in effect prior to April 1, 1958, the hourly rates in question could have been applied.

Applicant alleges that had he been aware that the rates for the transportation in question were subject to Commission regulation he could, and would have complied with the requirements of executing a written agreement with the shipper prior to April 1, 1958, and could and would have assessed hourly rates on this traffic in conformance with prescribed minimum rates. Applicant further alleges that the charges actually billed and collected are substantially

identical to those applicable under the minimum hourly rates; that relief to applicant from the obligation to collect whatever undercharges may exist will not result in any impairment of the Commission's minimum rate structure; and that rates in excess of those actually assessed and collected would be unjust and unreasonable on this traffic.

This Commission is empowered under Section 3667 of the Highway Carriers' Act to authorize highway permit carriers to adjust their rates below the minimum rates which otherwise would apply.² In view of all of the circumstances involved, the Commission is of the opinion and finds that this power should be exercised in this proceeding. The Commission is of the further opinion and finds that the rates applied by applicant are reasonable for the particular shipments involved. A public hearing is not necessary. The application will be granted. ✓

Therefore, good cause appearing,

IT IS ORDERED that J. L. Talkington is hereby authorized to waive collection of undercharges based upon the difference between charges assessed and collected at a rate of \$1.00 per thousand board feet and charges based upon the minimum rates set forth in Minimum Rate Tariff No. 2 in connection with shipments of lumber which were transported from points of origin within the Los Angeles Harbor Commercial Zone to the site of the lumber yard of Rossman Mill &


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See Decision No. 59760 dated March 8, 1960, in Case No. 5432, Petitions for Modification Nos. 154, 156, 158, 162, 163, 164, 165 and 167.


Lumber Co., also located within the Los Angeles Harbor Commercial Zone during the period April 1, 1958, to March 20, 1959, inclusive.

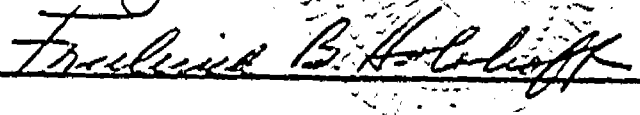
This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 31st day of May, 1961.



President






Commissioners