

Decision No. 62569**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 WILLIAM J. POPE and)
 VIVIAN W. POPE, doing business as)
 AETNA FREIGHT LINES; VIVIAN W. POPE,)
 doing business as AETNA FREIGHT LINES;)
 and WILLIAM J. POPE, doing business)
 as AETNA TRUCK EXPRESS.)

Case No. 6177
 Petition for Modification
 of Decision No. 59006

SUPPLEMENTAL OPINION AND ORDER

By this petition, filed July 6, 1961, William J. Pope and Vivian W. Pope seek authority to waive collection of certain undercharges applicable on shipments of coffee extract transported by them as highway common carriers. The undercharges in question were disclosed by respondents' audit of their records responsive to a directive of the Commission in Decision No. 59006, dated September 15, 1959, in this proceeding.

Respondents' audit pursuant to the above order allegedly developed undercharges of \$4,547.90 on shipments handled by them for General Foods Corporation. By this petition, respondents seek authority to adjust the balance due amount to \$2,000 and waive collection of the remaining \$2,547.90.

Respondents assessed rates on the involved shipments on the level of the rates of competing carriers but which respondents had failed to publish in their tariff. Respondents allege that the shipper did not obtain any actual preference or advantage by reason of the charges assessed; that the rates charged were rates at which the shipper could have obtained the same service by other carriers; that the undercharges resulted entirely from an inadvertence of respondents' tariff agent; that respondents have since published rates on the level of those assessed; and that charges adjusted as sought will be reasonable and consistent with the Public Utilities Act.

The shipments in question consisted of mixed truckload shipments composed of roasted coffee and dry coffee extract. The respondents assessed the same rate for both commodities whereas the respondents' highway common carrier tariff required that the dry coffee extract receive a higher rate. The respondents' tariff authorized the use of the same rate for roasted coffee and dry coffee extract on less-than-truckload shipments but not on truckload shipments. Effective June 18, 1958, respondents' tariff was amended to add coffee extract to the commodity description. This amendment placed the respondents upon the same basis as was theretofore applicable to the rail lines, other highway common carriers, and permitted carriers. The undercharges herein in question developed by reason of the fact that respondents applied the roasted coffee rates to the mixed shipments of roasted coffee and dry coffee extract prior to the tariff amendment of June 18, 1958.

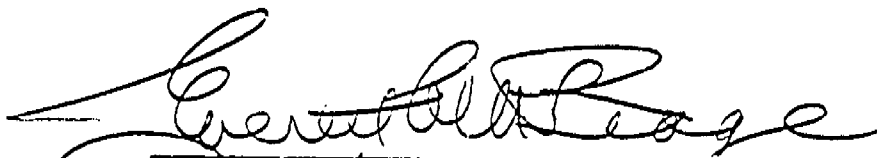
In view of all of the specific circumstances of this proceeding, the Commission is of the opinion and finds that respondents' tariff rates prior to June 18, 1958, for the particular traffic involved in this petition were unreasonable to the extent that they exceeded the rates which were published effective on that date. Respondents will be authorized and directed to waive collection of charges in the amount of \$4,547.90.


Good cause appearing,

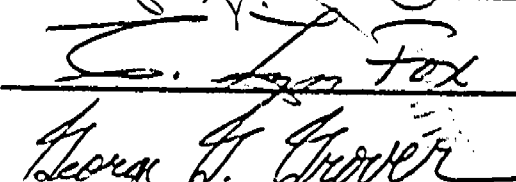
IT IS ORDERED that William J. Pope and Vivian W. Pope are hereby authorized to waive collection of tariff undercharges for the transportation of mixed truckload shipments of roasted coffee and dry coffee extract for the period from September 1, 1957 to, but not including, June 18, 1958, to the extent that the tariff charges exceeded those which would have accrued on the basis of the rates established effective June 18, 1958.

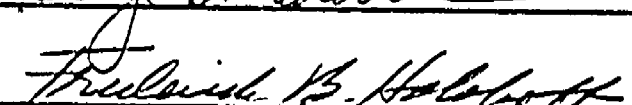
This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 12th day *W.C.* of ~~August~~ ^{September}, 1961.



President






Commissioners