

Decision No. 62958**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
 rates, charges, and practices of)
 Richard L. Eggleton, an individual,)
 doing business as EGGLETON TRUCKING.)

Case No. 7141

Richard L. Eggleton, respondent.
Lawrence Q. Garcia, for the Commission staff.

O P I N I O N

On June 27, 1961, the Commission instituted its investigation into the operations, rates and practices of Richard L. Eggleton, doing business as Eggleton Trucking, who is engaged in the business of transporting property over the public highways as a radial highway common carrier.

Pursuant to the order instituting investigation, public hearing was held before Examiner Martin J. Porter on November 7, 1961, at Los Angeles, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent has violated Sections 3664, 3667, 3668 and 3737 of the Public Utilities Code by charging and collecting a rate less than the minimum established under Minimum Rate Tariff No. 2, and whether respondent has failed to comply with Item 255-D of Minimum Rate Tariff No. 2, by not showing precise points of origin and/or destination on shipping documents.

Facts

The Field Section of the Commission's staff presented evidence that 351 shipments were examined for the period January 1, 1960 through April 30, 1960. Of these shipments 173 were similar

to the 28 selected for analysis and for which documents and supplemental information for rating purposes were forwarded to the Rate Analysis Unit. The respondent had entered into an agreement with shippers to transport for a flat rate. The difference between the minimum rate and this flat rate would be deducted from the shipper's bill as a dispatch service. There is no provision in Minimum Rate Tariff No. 2 for this alleged dispatch service. The evidence also shows that respondent neglected to show precise points of origin and/or destination on his shipping documents.

The respondent presented evidence which dealt with the matter of mitigation, the number of employees, financial condition and the fact that he had reviewed his records and collected from the shippers the lawful minimum rates in all instances, except for two shippers who were no longer in business.

It was stipulated that Richard L. Eggleton holds Radial Highway Common Carrier Permit No. 30-2020 and that he was served with Minimum Rate Tariff No. 2, Distance Table No. 4, and applicable supplements thereto.

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, by means of remitting to the shipper a portion of the rates and charges authorized by the Commission, has collected and received a lesser compensation for the transportation of property than the applicable minimum rates and charges established by this Commission.

3. That respondent has failed to comply with Item 255-D of Minimum Rate Tariff No. 2 as to points of origin and destination on shipping documents.

O R D E R

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

IT IS ORDERED that:

1. Respondent cease and desist collecting and receiving a lesser compensation for the transportation of property than the applicable minimum rates and charges and from failing to observe regulations concerning information to be placed on shipping documents.

2. Radial Highway Common Carrier Permit No. 30-2020 issued to Richard L. Eggleton is 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 this permit for the period of the suspension or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

3. Richard L. Eggleton 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 five days; that within five days after such posting Richard L. Eggleton shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent 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 19th day of DECEMBER, 1961.

Ernest R. Foy
President
W. H. Mitchell
E. R. Foy
George T. Grover
Fredrick B. Holoboff
Commissioners