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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, rates, charges and practices of BILL TAYLOR, doing business as BILL TAYLOR TRUCKING.

Case No. 7148

Bill Taylor, respondent.

Bernard F. Cummins, for the Commission staff.

O P I N I O N

On July 11, 1961, the Commission instituted its investigation into the operations, rates and practices of Bill Taylor, doing business as Bill Taylor Trucking. Respondent is engaged in the business of transporting property over the public highways as a radial highway common carrier and highway contract carrier.

Pursuant to the order instituting investigation, public hearing was held before Examiner Martin J. Porter on November 8, 1961 at Los Angeles, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent, in violation of Section 3668 of the Public Utilities Code and by means of known false billing or any other devices or means, has assisted, suffered or permitted any corporation or person to obtain transportation for property between points within this State at less than the rates established as minimum by Minimum Rate Tariff No. 2.

Facts

The Field Section of the Commission staff presented evidence, and we find, that seventeen transactions wherein respondent was allegedly buying and selling hay were analyzed and

were typical of the carrier's operation; that these seventeen transactions represented approximately \$10,000 in alleged purchases while respondent's total purchases for the year 1960 amounted to approximately \$500,000; that respondent's method of operation involved Houchin-Bleecker Company, whose buyer purchased hay from farmers and in turn sold it to the respondent; that in each of the seventeen transactions, after the hay was purchased the buyer telephoned respondent and told him where the hay was to be picked up; that respondent's driver then took the hay to Bellflower Hay Company's lot in Bellflower or to respondent's yard or, when the customer of Bellflower was known before the pickup, to such customer; that when the hay was delivered by respondent's driver to respondent's yard, it was with the understanding that it would be delivered by respondent to Bellflower Hay Company's customer when such customer had been determined; that Houchin-Bleecker issued invoices to respondent, but respondent did not issue any invoices to his purported vendees; that respondent could not identify to the staff investigator his purported vendees and it was necessary to secure this information from the Bellflower Hay Company; that respondent did not pay Houchin-Bleecker for the hay until after he received payment from Bellflower Hay Company.

The rate analysis unit of the Commission staff rated these seventeen transactions considering the respondent as performing transportation rather than engaging in buy and sell transactions, and a rate expert testified that in each instance the amount the respondent received from the Bellflower Hay Company was less than the applicable minimum rate.

It was stipulated that Bill Taylor holds Radial Highway Common Carrier Permit No. 19-47367 and Highway Contract Carrier Permit No. 19-47368 and that he had been served with Minimum Rate

Tariff No. 2, Distance Table No. 4, and applicable supplements thereto.

Findings and Conclusions

Based upon the evidence of record, the Commission finds and concludes that:

1. The alleged "buy-sell" transactions hereinabove referred to were in fact transportation of property for compensation on the public highways and subject to the provisions of the Highway Carriers' Act (Sections 3501-3809 of the Public Utilities Code).

2. Said transactions constituted a device whereby respondent, in violation of Section 3668 of the Public Utilities Code, has transported property as a permitted carrier at rates less than the applicable minimum rates and charges established by this Commission.

O R D E R

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

IT IS ORDERED that:

1. Radial Highway Common Carrier Permit No. 19-47367 and Highway Contract Carrier Permit No. 19-47368 issued to Bill Taylor are hereby suspended for five consecutive days starting at 12:01 a.m., on the second Monday following the effective date of this order. Respondent shall not lease the equipment or other 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. Bill Taylor 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 and highway contract carrier permit have been suspended by the Commission for a period of five days. Within five days after such posting Bill Taylor shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. Respondent shall examine his records for the period from January 1, 1960, to the present time, for the purpose of ascertaining all undercharges that have occurred.

4. Within ninety days after the effective date of this decision, respondent shall complete the examination of his records required by paragraph 3 of this order and shall file with the Commission a report setting forth all undercharges found pursuant to that examination.

5. Respondent shall take such action, including legal action, as may be necessary to collect the amounts of undercharges found after the examination required by paragraph 3 of this order, and shall notify the Commission in writing upon the consummation of such collections.

6. In the event undercharges ordered to be collected by paragraph 5 of this order, or any part of such undercharges, 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 thereafter, a report of the undercharges remaining to be collected and specifying the action taken to collect such undercharges and the result of such action, until such undercharges have been collected in full or until further order of the Commission.

7. Respondent shall cease and desist from using fictitious "buy and sell" transactions, such as those disclosed herein, as a device for evading the minimum rate orders of this Commission.

The Secretary of the Commission is directed to cause personal service of this order to be made upon respondent. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 6th day of FEBRUARY, 1962.

Edward A. Ray
President
W. L. Mitchell
E. J. Fox
George H. Grover
Fredrick B. Hebbhoff
Commissioners