

ORIGINAL

Decision No. 63305

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own )  
motion into the operations, rates and )  
practices of SUPERIOR CALIFORNIA )  
TRUCKING COMPANY, a Washington )  
corporation. }

Case No. 7117

E. H. Griffiths, for respondent.

Elinore Charles, for the Commission staff.

O P I N I O N

Public hearing of this matter was held before Examiner John K. Power at San Francisco on September 27, 1961, and the matter was then submitted. The investigation was instituted to determine whether respondent had violated Section 3664 of the Public Utilities Code by assessing charges less than those provided by Minimum Rate Tariff No. 2, including the provisions for alternative application of rail rates.

The Commission staff, through two witnesses, presented evidence of thirty transactions. Supporting documents and a rate statement made up the staff's two exhibits.

Respondent did not dispute the rate conclusions of the staff. Its case was chiefly in mitigation. Four letters were introduced into evidence indicating that respondent had reviewed its billings in the light of staff conclusions and had demanded additional payments from undercharged shippers. There were sixty-four of these undercharges, including those reported by the staff.

The staff exhibits contain data on thirty transactions. In eleven of these respondent transported lumber at rail rates; the consignors in all eleven instances and the consignee in one were not located on rail, and respondent failed to assess off-rail charges. Two shipments of junk tires and tubes appear to have involved an abortive attempt to make a multiple lot shipment; however, no master bill was issued and the two lots were not picked up within two consecutive days as required by the minimum rate order. The remaining seventeen cases involved shipments of frozen fruit from Lincoln to Sacramento, all for the account of the same two shippers, at less than the prescribed minimum rates.

The Commission finds from the evidence that, between April 16, 1960 and December 9, 1960, respondent did transport nineteen shipments of lumber, two shipments of junk tires and tubes, and forty-three shipments of frozen fruit at rates less than the minimum rates prescribed by Minimum Rate Tariff No. 2, as summarized in Appendix A attached hereto. The Commission further finds and concludes that, in so doing, respondent violated Section 3664 of the Public Utilities Code.

The Commission is now authorized to impose a fine in a case of this type as an alternative to suspending operating authority. Although the applicable statute was not in effect at the time of the violations here involved, it became effective before the matter was submitted. We find that, in place of a mandatory suspension of operating rights, respondent should be given the alternative of paying a fine of \$2,500. In making this finding we have considered the seriousness of the violations found to have been committed, the amount of the undercharges, the size and nature of respondent's operations, and other factors.

O R D E R

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

IT IS ORDERED that:

1. If, on or before the fortieth day after personal service of this order upon respondent, respondent has not paid the fine referred to in paragraph 3 of this order, then Radial Highway Common Carrier Permit No. 31-460 issued to Superior California Trucking Company, a corporation, shall be suspended for five consecutive days starting at 12:01 a.m. on the second Monday following the fortieth day after such personal service.

2. In the event of such suspension, respondent shall not lease the equipment or other facilities used in operations under said permit for the period of the suspension, or directly or indirectly allow such equipment or facilities to be used to circumvent the suspension; respondent shall post at its 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 its radial highway common carrier permit has been suspended by the Commission for a period of five days; within five days after such posting it shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$2,500 to this Commission on or before the fortieth day after personal service of this order upon respondent.

4. Superior California Trucking Company, a corporation, shall examine its records for the period from April 16, 1960 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision and set forth in detail in Appendix A attached hereto.

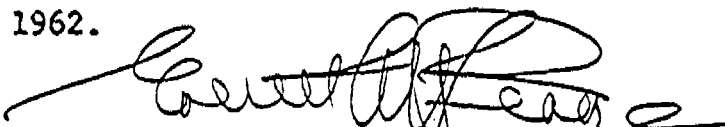
5. Within ninety days after the effective date of this decision, Superior California Trucking Company, a corporation, shall complete the examination of its records hereinabove required by paragraph 4 of this order and file with the Commission a report setting forth all undercharges found.

6. Superior California Trucking Company, a corporation, is hereby directed to take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth in Appendix A attached hereto, together with any additional undercharges found after the examination required by paragraph 4 of this order, and to notify the Commission in writing upon the consummation of such collections.

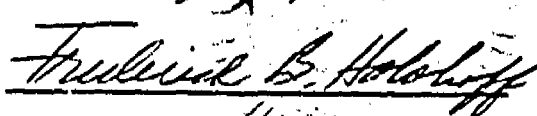
7. In the event charges to be collected as provided in paragraph 6 of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, Superior California Trucking Company, a corporation, shall institute legal proceedings to effect collection and shall submit to the Commission, on the first Monday of each month thereafter, a report of the undercharges remaining to be collected, 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 Superior California Trucking Company, a corporation. This order shall be effective twenty days after the completion of such service.

Dated at San Francisco, California, this 20th day of FEBRUARY, 1962.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
C. L. Linton

  
\_\_\_\_\_  
Frederick B. Holbrook

\_\_\_\_\_  
Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A  
Page 1 of 2

Date of Frts. Bill	No. of Frts. Bill	Billed	Correct Charge	Under- charge
4/16/60	8424	\$123.20	\$149.60	\$26.40
4/12/60	3490	123.20	147.36	24.16
4/13/60	5418	123.20	147.36	24.16
5/18/60	4473	140.11	170.13	30.02
5/18/60	5448	137.93	167.49	29.56
5/19/60	4475	130.51	158.48	27.97
5/19/60	5449	130.06	157.93	27.87
5/27/60	5455	131.60	159.80	28.20
6/ 4/60	3518	128.02	155.45	27.43
6/ 6/60	2469	130.65	158.65	28.00
6/ 9/60	2474	126.28	153.34	27.06
6/10/60	6470	132.16	160.48	28.32
6/13/60	9543	130.06	157.93	27.87
6/15/60	9546	126.00	153.00	27.00
6/23/60	9558	130.76	158.78	28.02
6/23/60	4496	123.20	147.36	24.16
6/24/60	3533	123.20	148.48	25.28
6/26/60	9560	123.20	149.60	26.40
7/20/60	5504	41.13	94.01	52.88
7/21/60	2515	41.13	94.01	52.88
7/21/60	5505	41.13	94.01	52.88
7/22/60	2516	41.13	94.01	52.88
7/22/60	5506	41.13	94.01	52.88
7/25/60	2517	41.13	94.01	52.88
7/25/60	5507	41.13	94.01	52.88
7/26/60	5509	41.13	94.01	52.88
7/26/60	2518	41.13	94.01	52.88
7/27/60	5510	41.13	94.01	52.88
7/27/60	2519	41.13	94.01	52.88
7/28/60	5511	41.13	94.01	52.88
7/28/60	2520	41.13	94.01	52.88
8/12/60	2524	41.13	94.01	52.88
8/12/60	3562	41.13	94.01	52.88
8/15/60	2525	41.13	94.01	52.88
8/15/60	5525	41.13	94.01	52.88
8/15/60	5526	41.13	94.01	52.88
8/16/60	2526	41.13	94.01	52.88
8/16/60	5527	41.13	94.01	52.88
8/16/60	5528	41.13	94.01	52.88
8/29/60	3568	41.13	94.01	52.88
8/29/60	5546	40.99	93.68	52.69
9/16/60	5558	41.13	94.01	52.88
9/16/60	5559	41.13	94.01	52.88
9/16/60	5560	41.13	94.01	52.88
9/19/60	5563	41.13	94.01	52.88
9/20/60	5565	41.13	94.01	52.88
10/10/60	2571	41.13	96.36	55.23
10/10/60	5585	41.13	96.36	55.23
10/10/60	5586	41.13	96.36	55.23
10/10/60	5587	41.13	96.36	55.23
11/21/60	3637	41.13	96.36	55.23
11/21/60	3638	41.13	96.36	55.23

APPENDIX A  
Page 2 of 2

: Date of	: No. of	:	:	: Correct	: Under-
: Frt.	: Frt.	:	:	: Charge	: charge
: Bill	: Bill	: Billed	:	:	:
11/22/60	3640	\$ 41.13	\$ 96.36	\$55.23	
11/22/60	3641	41.13	96.36	55.23	
11/23/60	3642	41.13	96.36	55.23	
11/23/60	3643	41.13	96.36	55.23	
11/28/60	3645	41.13	96.36	55.23	
11/28/60	3646	41.13	96.36	55.23	
12/ 9/60	3654	41.13	96.36	55.23	
12/ 9/60	3655	41.13	96.36	55.23	
12/ 9/60	3656	38.50	63.36	24.86	
10/20/60	03621	134.90	168.00	33.10	
10/18/60	03619	135.86	168.00	32.14	
10/12/60	04588	133.22	166.22	33.00	