

ORIGINAL

63338

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,
rates, charges and practices of
M. L. WATKINS, an individual.

Case No. 7200

M. L. Watkins, respondent.
Ellenore Charles and George Kataoka, for the
Commission staff.

O P I N I O N

On October 10, 1961, the Commission issued its order instituting investigation into the operations, rates and practices of M. L. Watkins, 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 December 20, 1961, at San Francisco, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent has violated Sections 3664, 3667 and 3737 of the Public Utilities Code by charging and collecting a rate less than the minimum established by Minimum Rate Tariff No. 2.

Facts

The Field Section of the Commission's staff presented evidence that 121 shipments were examined for the period July 1960 through September 1960; 76 of these shipments were performed by the carrier as subhauler. Of the 45 shipments performed by the

carrier as prime carrier, 24 were selected as representative, and documents and supplemental information for rating purposes were forwarded to the Rate Analysis unit.

The Commission's staff also presented evidence as to a possible rebate by the carrier through the device of payment to the shipper for repairs to equipment of the carrier by the shipper.

The rate analysis disclosed undercharges in 15 instances which were the result of the carrier's failure to apply off-rail charges and the application of improper rates quoted by the shipper and relied upon by the carrier.

The evidence in regard to possible rebate is not sufficient to support a finding that such rebates in fact occurred.

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 assessed and collected charges less than the applicable charge established by this Commission in Minimum Rate Tariff No. 2, which resulted in undercharges as follows:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Charges Assessed or Collected by Respondent</u>	<u>Correct Charges</u>	<u>Under- Charges</u>
7623	6-21-60	\$288.97	\$335.93	\$46.96
7625	6-24-60	284.61	328.89	44.28
8404	6-28-60	281.24	325.54	44.30
8472	7- 7-60	263.73	332.04	68.31
8406	7- 8-60	283.74	322.66	38.92
8474	7-11-60	281.47	326.08	44.61
8408	7-11-60	281.69	334.59	52.90
8478	7-26-60	139.20	141.20	2.00
7631	7-12-60	57.46	65.00	7.54
8409	7-12-60	57.46	65.00	7.54
8473	7- 8-60	78.62	87.25	8.63
8405	7- 1-60	168.12	193.47	25.35
7626	7- 5-60	167.40	192.65	25.25
7628	7- 7-60	180.00	207.00	27.00
7630	7- 7-60	183.60	211.00	27.40
7629	7- 8-60	176.40	202.90	26.50
7632	7-13-60	166.32	191.42	25.10
8410	7-13-60	178.20	204.95	26.75
7633	7-14-60	169.92	195.52	25.60
8411	7-16-60	204.95	229.70	24.75
8471	7- 5-60	239.55	265.51	25.96
7627	7- 8-60	196.95	216.10	19.15
8434	9-19-60	167.00	208.93	41.93
8433	9-21-60	173.60	214.60	41.00

(Undercharges for these shipments amounted to \$727.73)

3. That respondent violated Sections 3664, 3667 and 3737 of the Public Utilities Code by charging and collecting a compensation less than the prescribed minimum established by this Commission in Minimum Rate Tariff No. 2.

4. That respondent's permit should be suspended for a period of five consecutive days and that he should be directed to collect the undercharges herein found, together with any additional undercharges found after the examination required by the ensuing order.

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. 4-1260 issued to M. L. Watkins 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.
2. M. L. Watkins 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; and that within five days after such posting he 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 July 1, 1960, to the present time, for the purpose of ascertaining if any undercharges have occurred other than those mentioned in Finding No. 2 of this decision.
4. Within ninety days after the effective date of this decision, respondent shall complete the examination of his records hereinabove required by Ordering Paragraph 3 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 set forth in the preceding opinion, together with any additional 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 charges to be collected as provided in Paragraph 5 of this order, or any part thereof, remain uncollected one hundred twenty days after the effective date of this order, respondent shall institute legal proceedings to effect collection and shall submit to the Commission, on the first Monday of each month, a report of the undercharges remaining to be collected and 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 M. L. Watkins.

The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 26th day of FEBRUARY, 1962.

George A. Bagley
President
W. J. [unclear]
[unclear]
Frederick B. Holhoff
Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate