

ORIGINAL

Decision No. 63522

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation)
into the rates, rules, regulations,)
charges, allowances and practices)
of all common carriers, highway) Case No. 5432
carriers and city carriers relating) (Petition for Modification
to the transportation of any and) No. 228)
all commodities between and within) (Filed January 26, 1962)
all points and places in the State)
of California (including, but not)
limited to, transportation for)
which rates are provided in)
Minimum Rate Tariff No. 2).)

SUPPLEMENTAL OPINION AND ORDER

By Decision No. 62465, dated August 22, 1961, in this proceeding, Winans Bros. Trucking Co., a corporation, operating as a highway common carrier, was authorized to publish a rate of 16½ cents per 100 pounds, minimum weight 53,000 pounds, for the transportation of lumber and green veneer from Hayfork (Trinity County) to Redding. This rate is lower than the established minimum rate for the same transportation. The authorized rate is scheduled to expire with September 26, 1962.

By petition for modification, petitioner now seeks amendment of the existing authority so that the rate currently authorized from Hayfork to Redding will also apply to all points located within five miles of Redding. Authority is also sought to depart from the long-and-short-haul provisions of Section 460 of the Public Utilities Code in connection with the authorized rate. The Commission is also asked to waive the collection of any undercharges that have heretofore occurred on shipments from Hayfork to points located outside of the city limits of Redding.

The decision on which prior authorities were granted was¹ based on exhibits and oral testimony offered at public hearings. That decision discussed specifically shipments consigned to the B & D Lumber Company, Coast Pacific Company, Redding Manufacturing Company and the yard terminal of petitioner, all of which are referred to therein as being in Redding. Petitioner now states that all of these consignees, except its own yard terminal, are and were located outside of the city limits of Redding.

In view of the fact that the authority heretofore granted was predicated upon cost evidence which related to transportation to the specific destinations beyond the city limits of Redding, it appears, and the Commission finds, that the broadening of the current authority, as proposed herein, to encompass the points of destination beyond the city limits, is reasonable and justified by transportation conditions.

In the circumstances, the current authority will be modified so that the less than minimum rate authorized therein may be published by petitioner for transportation of the commodities named from Hayfork to all points and places located within a radius of five airline miles of the mileage basing point of Redding (Market² and Yuba Streets). The enlarged delivery area, as so defined, will encompass all of the destinations which petitioner desires to serve under this rate authority.

¹

Decision No. 54210, dated December 4, 1956, in Case No. 5432 (Petition for Modification No. 32, Third Supplemental, and Order Setting Hearing dated June 26, 1956).

²

The mileage basing point for the City of Redding is shown in Item No. 30 of the Commission's Distance Table No. 4.

The petition shows that the discrepancy between the destination named in the carrier's tariff and the actual location of the consignees came to light when the Commission instituted an order of investigation charging violations, among other things, of the carrier's tariff rates. That investigation is pending.³

In support of its instant request for authority to waive the collection of past undercharges, petitioner alleges that it would be most unfair for the Commission to grant an application to charge the rate intended for use in the delivery of shipments to the B & D Lumber Company, and then in another proceeding urge that the authority ostensibly granted is ineffective.

It is the statutory burden of the common carrier to establish its tariff which shall plainly state the places between which property will be carried (P. U. Code, Sec. 487). Petitioner heretofore has been granted the authority which it requested, and has established rates from Hayfork to Redding in accordance with that authority. Regardless of the indicated inadvertence in petitioner's prior request and tariff publication, the allegations of the petition do not suffice to establish that the rates which were published and effective in petitioner's tariff were unreasonable or otherwise unlawful. If the carrier or its shippers believe that the tariff rates were unreasonable or otherwise unlawful within the meaning of Section 734 of the Public Utilities Code, an appropriate pleading may be filed. Meanwhile, petitioner's request for authority to waive the collection of undercharges will be dismissed without prejudice.

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Case No. 7172. Hearings have been held.

This is a matter in which a public hearing is not necessary.

Good cause appearing,

IT IS ORDERED that:

1. Winans Bros. Trucking Co., a corporation, is hereby authorized to publish and file, and to make effective on not less than thirty days' notice to the Commission and to the public, a rate of 16½ cents per 100 pounds, minimum weight 53,000 pounds, for the transportation of lumber and green veneer from Hayfork (Trinity County) to Redding and all points and places within five airline miles of the intersection of Market and Yuba Streets in Redding, said rate to be published to expire with September 26, 1962.

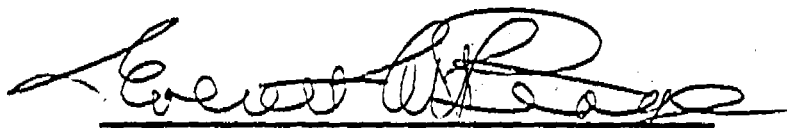
2. Winans Bros. Trucking Co. is hereby authorized to depart from the long-and-short-haul provisions of Article XII, Section 21 of the Constitution of the State of California, and Section 460 of the Public Utilities Code to the extent necessary to carry out the effect of this order. In the publication of the rate hereinabove authorized, Winans Bros. Trucking Co. shall make reference in its tariffs to this order authorizing the aforesaid long-and-short-haul departure.

3. The rate authority granted in Ordering Paragraphs 1 and 2 above, shall, on and after the effective date of this order, supersede the authority granted by Decision No. 62465, supra.

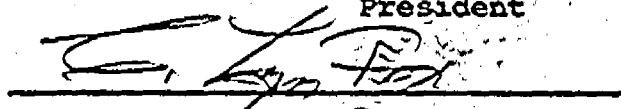
4. In all other respects, Petition for Modification No. 228 is hereby dismissed without prejudice.

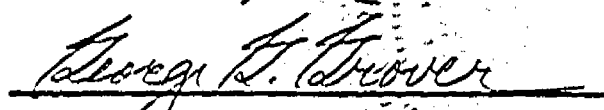
This order shall become effective twenty days after the date hereof.

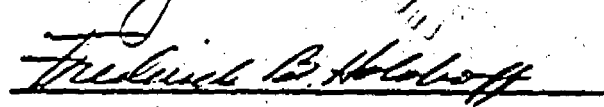
Dated at San Francisco, California, this 3rd day of April, 1962. ✓



President







Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.