

ORIGINALDecision No. 63854

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the
 Commission's own motion into the operations,
 rates, and practices of GROVER C. DAVIS.)

Case No. 7291
 (Filed March 6, 1962)

Grover C. Davis, in propria persona.
Elmer Sjostrom, for the Commission staff.

O P I N I O N

This case was instituted by the Commission to investigate the operations and practices of and rates charged by Grover C. Davis. Public hearing thereon was held on May 3, 1962, in Paso Robles before Examiner Rowe.

It was stipulated that respondent had been issued a radial highway common carrier permit and had received Minimum Rate Tariff No. 3-A and Distance Table No. 4 and all amendments and supplements. Respondent was twice warned as to undercharges by letters dated June 10, 1959, and June 9, 1961.

The staff's case consisted of the testimony of a transportation representative covering field surveys of this carrier's operations and billing procedures. This testimony, together with an exhibit of an associate transportation rate expert, was introduced indicating that rates had been assessed that were less than those prescribed by Minimum Rate Tariff No. 3-A. The violations shown consisted of assessments of rates lower than prescribed, the transportation of salted hides before the permit was amended to permit such movement, and the transportation of such hides for consideration bearing no relation to the Commission's

Minimum Rate Tariff. Charges for shipments of livestock were made without compliance with the tariff and Distance Table and in instances where no proper certificates of a certified Public Weighmaster had been issued.

Respondent testified in his own behalf and stated that he was unversed in tariff interpretation and the technicalities of rate determination. He conceded, however, that undercharges had been made. Also, he admitted receiving the prior warnings and stated that on a previous occasion he had held Commission permits.

The evidence shows and the Commission finds that respondent assessed and collected charges less than the applicable charges established by the Commission in Minimum Rate Tariff No. 3-A in the amount of \$799.78, including the following numbered freight bills:

<u>Freight Bill No.</u>	<u>Date</u>	<u>Stated Commodity</u>	<u>Undercharges</u>
911	3/16/61	99 Steers	\$ 50.18
920	3/26/61	39 Cattle	14.57
921	3/26/61	80 Calves	9.66
959	4/15/61	64 Cows	116.21
968	4/18/61	36 Steers	9.91
979	4/23/61	34 Heifers	1.25
982	4/25/61	34 Steers	7.36
977	4/26/61	32 Cows	15.23
990	4/30/61	81 Sheep	48.98
999	5/ 2/61	34 Steers	9.74
1003	5/ 4/61	18 Cattle	43.00
1005	5/ 5/61	48 Heifers	51.36
1034	5/22/61	120 Steers	23.30
1059	6/10/61	93 Steers	12.00
1067	6/10/61	74 Calves, Cows and Bulls	21.00
1102	7/ 3/61	83 Steers	32.30
1099	7/ 8/61	81 Cows	5.46
1115	7/12/61	41 Steers	7.60
1129	7/12/61	19 Steers	45.03
1167	8/23/61	27 Cows	48.00
1187	8/26/61	14 Cattle	49.14
--	5/21/61	37 Cattle	178.50

Findings and Conclusions

Upon consideration of the evidence herein, the Commission finds and concludes that:

1. Respondent assessed and collected rates less than the applicable minimum rates established by the Commission in Minimum Rate Tariff No. 3-A in the amount of \$799.78.

2. Respondent has violated Section 3737 of the Public Utilities Code by failing to issue proper shipping documents prescribed by Minimum Rate Tariff No. 3-A.

3. Respondent has violated Section 3571 of said Code by transporting property for compensation without possessing a proper permit from the Commission authorizing such transportation.

O R D E R

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

IT IS ORDERED that:

1. The Radial Highway Common Carrier Permit No. 40-999 issued to Grover C. Davis is hereby suspended for a period of five consecutive days starting at 12:01 a.m. on the second Monday following the fortieth day after personal service of this order upon respondent. Respondent 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. Grover C. Davis shall post at his terminal and facility used for receiving property from the public for transportation, and 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 consecutive days; that within five days after such posting respondent 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 the time he commenced operations as a radial highway common carrier in 1959, to the present time, for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

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

5. Respondent is hereby directed to 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 to notify the Commission in writing upon the consummation of such collections.

6. In the event undercharges ordered to be collected as provided in 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 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 undercharges and the result of such action until such undercharges have been collected in full or until further order of this Commission.

7. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$3,000.00 to this Commission on or before the fortieth day after personal service of this order upon respondent.

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

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

Charles H. Bagley
President
John E. Hestill
George H. Trover
Frederick B. Holloff
Commissioners

Commissioner C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.