

ORIGINALDecision No. 54450

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
rates and practices of Ralph and
Norman Ross, co-partners, doing
business as ROSS TRUCKING.

Case No. 7350
(Filed May 14, 1962)

Ralph Ross and Norman Ross, in propriae
personae.
Elmer Sjostrom, for the Commission staff.

O P I N I O N

This is an investigation into the operations, rates and practices of Ralph and Norman Ross, co-partners, doing business as Ross Trucking to determine whether respondents violated Section 3667 of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Commission Minimum Rate Tariff No. 2.

A public hearing was held before Examiner Thomas E. Daly on August 29, 1962, at San Jose and the matter was submitted.

Respondents are presently operating pursuant to Radial Highway Common Carrier Permit No. 43-788 issued March 4, 1938. They maintain a terminal in Gilroy, California. They own and operate 14 units of equipment and employ five drivers and one bookkeeper. It was stipulated that respondents had been served with copies of the appropriate Minimum Rate Tariffs and distance tables involved herein.

During the months of July, September and October, 1961, a representative of the Commission's Field Division visited the terminal of respondents and investigated their records for the period from January 1, 1961, to June 1, 1961. The records covering

17 shipments transported during this period were photostated and introduced into evidence as Exhibit 1. A summary of the shipping data contained in said records together with a statement as to the applicable minimum rates was introduced into evidence as Exhibit 2 through a rate expert from the Commission's Transportation Division staff.

Of the 17 shipments considered, 16 involved the transportation of plywood and 1 the transportation of steel plates. Fourteen shipments resulted in direct undercharges in the total amount of \$1,680.42. Three shipments (Parts 3, 14 and 16 of Exhibit 2) failed to comply with rules governing the documentation of split and multiple lot shipments. The staff's rate expert testified that the minimum rates and charges applicable to these three shipments could not be determined because the individual weight for each component part of said shipments was not obtainable.

Norman Ross testified on behalf of respondents. He testified that up to 1961 he and his brother had been primarily engaged in the transportation of hay to points in the Los Angeles territory. In early 1961, he testified, they became acquainted with a Mr. and Mrs. Dennison, who were located in Los Angeles and were able to arrange for backhaul shipments of plywood and steel. According to the witness respondents rented a small office in Los Angeles and hired Mr. and Mrs. Dennison on a percentage, per shipment basis. He testified that all negotiations involving the shipments of plywood and steel, including the rating of said shipments, were performed by Mr. and Mrs. Dennison. He further testified that prior to their having any knowledge of the undercharges here involved, respondents had discontinued the arrangement with the Dennisons, had terminated their Los Angeles office and were presently conducting all backhauls from the Los Angeles area under subhaul arrangements.

After consideration the Commission finds that respondents through their agents have violated Section 3667 of the Public Utilities Code by charging, demanding and collecting a lesser compensation for the transportation of the shipments referred to in Parts 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 17 of Exhibit 2 than the applicable charges prescribed in Commission Minimum Rate Tariff No. 2. The Commission further finds that with respect to the shipments referred to in Parts 3, 14 and 16 of Exhibit 2 respondents failed to comply with the rules governing the documentation of split and multiple lot shipments as set forth in Minimum Rate Tariff No. 2 and as required by Section 3737 of the Public Utilities Code.

O R D E R

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 respondents, respondents have not paid the fine referred to in paragraph 7 of this order, then Radial Highway Common Carrier Permit No. 43-788 issued to Ralph and Norman Ross shall hereby be suspended for five consecutive days, starting at 12:01 a.m., on the second Monday following the fortieth day after such personal service. Respondents shall not, by leasing the equipment or other facilities used in operations under this permit for the period of suspension, or by any other device, directly or indirectly allow such equipment or facilities to be used to circumvent the suspension.

2. Respondents shall post at their 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 their radial highway common carrier permit has been suspended by the Commission for a

period of five days. Within five days after such posting respondents shall file with the Commission a copy of such notice, together with an affidavit setting forth the date and place of posting thereof.

3. Respondents shall examine their records for the period from January 1, 1961, 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, respondents shall complete the examination of their 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. Respondents shall take such action, including legal action, as may be necessary to collect the amounts of undercharges set forth herein, together with those 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, respondents shall institute legal proceedings to effect collection and 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. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondents may pay a fine of \$2,000 to this Commission on or before the fortieth day after personal service of this order upon respondents.

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

Dated at San Francisco, California, this 23rd day of OCTOBER, 1962.

George G. Grover
President

Peter R. Mitchell

C. Lynn Fox

Everett C. Moynagh

Frederick B. Holoboff
Commissioners

GEORGE G. GROVER
President
PETER R. MITCHELL
C. LYNN FOX
EVERETT C. MOYNAGH
FREDERICK B. HOLOBOFF
Commissioners