

64484

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations, rates
and practices of STARLITE MOTOR LINES,
INC., a corporation.

Case No. 7328

Robert O'Neil, for respondent.
Walter G. Linstedt, for the Commission staff.

O P I N I O N

On May 8, 1962, the Commission instituted its investigation into the operations, rates and practices of Starlite Motor Lines, Inc.

Pursuant to the Order Instituting Investigation public hearing was held before Examiner Martin J. Porter on August 22, 1962, at San Jose, on which date the matter was submitted.

The purpose of this investigation is to determine whether respondent, in violation of Sections 3664, 3667 and 3737 of the Public Utilities Code, has charged, demanded or received a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 2 and supplements thereto.

The Commission staff presented evidence that a review period of January 1961 through June 1961 was selected. Approximately 300 shipping documents were analyzed and of that number 11 revealed violations. Four additional shipments that had been the subject of an undercharge letter, dated December 30, 1960, directed to the carrier were reviewed. These four shipments had been rebilled correctly by the respondent as directed by the undercharge letter,

but as of August 10, 1961, the corrected amount had not been received by the respondent.

The Rate Analysis Unit rating of all fifteen shipments showed undercharges in each instance.

The causes of the undercharges were failure to apply correct split delivery charges, not considering off route mileage and the use of improper mileage.

The respondent produced evidence that all the shipments listed in Exhibit 3 (the rate statement) had been rebilled correctly and six had been collected.

It was stipulated that Starlite Motor Lines, Inc., holds Radial Highway Common Carrier Permit No. 43-4941 and that it has been served with Minimum Rate Tariff No. 2, Distance Table No. 4 and applicable supplements thereto.

Findings

Based upon the evidence of record we hereby find that:

1. Respondent is engaged in the transportation of property over the public highways for compensation as a radial highway common carrier.
2. Respondent assessed and collected charges less than the applicable charges 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>Charge Assessed or Collected by Respondent</u> | <u>Correct Charge</u> | <u>Under- charge</u> |
|-----------------------------|-------------|---|---------------------------|--------------------------|
| 3473 | 7/22/60 | \$277.26 (41.32 still owing) | \$277.26 | \$ 41.32 |
| 3475 | 7/28/60 | 286.35 (42.75 still owing) | 286.36 | 42.75 |
| 3474 | 7/29/60 | 301.68 (45.13 still owing) | 301.68 | 45.13 |
| 3476 | 8/ 1/60 | 292.28 (43.67 still owing) | 292.28 | 43.67 |
| 4768 | 1/ 3/61 | 121.39 | 140.81 | 19.42 |
| 4778 | 1/11/61 | 175.98 | 204.35 | 28.37 |
| 3460 | 1/19/61 | 194.93 | 231.84 | 36.91 |
| 3456 | 1/18/61 | 115.50 | 131.50 | 16.00 |
| 3596 | 3/2,3/61 | 225.41 | 267.83 | 42.42 |
| 3392 | 3/7,8/61 | 204.60 | 231.13 | 26.53 |
| 3706 | 4/ 5/61 | 113.45 | 127.07 | 13.62 |
| 3167 | 4/19/61 | 311.02 | 419.33 | 108.31 |
| 7693 | 5/15/61 | 191.15 | 327.10 | 135.95 |
| 7695-7696 | 5/19/61 | 145.28 | 190.59 | 45.31 |
| 3759 | 6/ 8/61 | 203.50 | 242.88 | 39.38 |

Undercharges for these shipments amounted to \$685.09.

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

4. Respondent's permit should be suspended for a period of five consecutive days, or, in the alternative, it should be required to pay a fine of \$1,000.

ORDER

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. 43-4941 issued to Starlite Motor Lines, Inc.,

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. Respondent 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. 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 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. As an alternative to the suspension of operating rights imposed by paragraph 1 of this order, respondent may pay a fine of \$1,000 to this Commission on or before the fortieth day after personal service of this order upon respondent.

4. Respondent shall examine its records for the period from January 1, 1961, to the present time, for the purpose of ascertaining all undercharges that have occurred.

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

6. Respondent 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 4 of this order, and shall notify the Commission in writing upon the consummation of such collections.

7. In the event undercharges ordered to be collected by paragraph 6 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 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.

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

Dated at San Francisco, California, this 30th day of OCTOBER, 1962.

George G. Grover
President

[Signature]

[Signature]

[Signature]

Fredrick B. Halbach
Commissioners