

ORIGINAL

Decision No. 65060

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)	
own motion into the operations,)	
practices, rates and charges of)	Case No. 7485
L. A. MASON TRUCKING CO., a)	
corporation.)	

Lionel Avis Mason, for respondent.
William C. Bricca and Frank O'Leary, for
the Commission staff.

O P I N I O N

On November 20, 1962, the Commission issued its order instituting investigation into the operations, rates and practices of L. A. Mason Trucking Co., a California corporation, for the purpose of determining whether respondent, a permitted highway carrier, has violated Sections 3664 and 3737 of the Public Utilities Code by charging or collecting a lesser sum for the transportation of property than the applicable charges prescribed by Minimum Rate Tariff No. 2 and Item 35 thereof, and supplements thereto.

Public hearing was held on February 4, 1963, before Examiner DeWolf at Los Angeles, California, and the matter was submitted on the same date.

It was stipulated that respondent holds Radial Highway Common Carrier Permit No. 19-53912, dated January 9, 1962. It was also stipulated that Minimum Rate Tariff No. 2 and Distance

Table No. 4, together with all amendments and supplements, were properly served upon respondent.

Respondent, in the conduct of his operations, utilizes two tractors and two trailers. He has one employce and no terminals. His gross operating revenues, as shown on the last reports of 1962, are as follows: First quarter, \$68,587; second quarter, \$7,328. Respondent's permit was placed in voluntary suspension in July, 1962 and remains suspended.

The Commission staff presented evidence based upon a review of respondent's documents covering the months of January, February, March and April, 1962. Ten representative shipments, with freight bills and supporting documents, were used to show undercharges for transportation of property by respondent, pursuant to his carrier permit, at rates less than the minimum rates established by this Commission in Minimum Rate Tariff No. 2. These were rated by the Rate Analysis Unit.

Exhibit No. 1 contains 10 parts which are photocopies of respondent's shipping documents, invoices, and statements.

Exhibit No. 2 contains a summary of shipping data concerning Parts Nos. 1 through 10 of Exhibit No. 1, and was introduced into evidence through the testimony of a Commission staff rate expert. It shows the differences between respondent's freight charges and the minimum rate calculated by the rate expert, and shows that respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 2, which resulted in the following undercharges with respect

to Parts 1 through 10, inclusive, of Exhibits Nos. 1 and 2:

<u>Respondent's Freight Bill No.</u>	<u>Date</u>	<u>Charge Collected by Respondent</u>	<u>Correct Charge</u>	<u>Under- charges</u>
5520	1-17-62	\$432.72	\$ 585.66	\$ 152.94
5531	1-26-62	828.42	986.08	157.66
5538	2- 1-62	558.25	717.65	159.40
6009	3- 9-62	588.90	757.21	168.31
6014	3-17-62	592.41	790.44	198.03
6022	3-22-62	488.54	651.92	163.38
6033	3-28-62	540.38	709.83	169.45
6043	4- 3-62	597.80	716.58	118.78
6044	4- 3-62	812.85	1,062.18	249.33
6054	4-18-62	540.21	689.87	149.66
			Total	\$1,686.94

The causes of the undercharges were, in the main, failure to assess proper rates, more particularly for multiple-lot shipments, split-delivery charges, off-rail charges, and failure to prepare correct shipping documents, causing illegal consolidations.

Respondent admitted the undercharges on shipments set forth in the order instituting investigation as shown in Parts 1 through 10, inclusive, of Exhibits Nos. 1 and 2.

Respondent conceded that the violations had occurred and, by way of extenuation and mitigation, stated that he had a woman who did the billing and who called a rate expert for rates and that they incorrectly considered the rules regarding split-delivery and multiple-lot shipments, causing the undercharges. He admitted that errors were made in rate calculations and rate billing, but he contended that these violations were not willful.

Upon the evidence the Commission finds that:

1. All applicable minimum rate orders were served upon respondent prior to the undercharges above set forth.
2. Respondent assessed and collected charges less than the applicable minimum charges prescribed in Minimum Rate Tariff No. 2, which resulted in undercharges in the total amount of \$1,686.94, as above set forth.

3. In the performance of various transportation services hereinabove set forth and more particularly appearing in Exhibits Nos. 1 and 2, respondent has violated or failed to comply with the provisions of Minimum Rate Tariff No. 2.

Having found facts as hereinabove set forth, the Commission concludes that respondent, L. A. Mason Trucking Co., has violated Sections 3664 and 3737 of the Public Utilities Code and the provisions and requirements of Minimum Rate Tariff No. 2 by charging and collecting a lesser compensation for the transportation of property as a permit carrier than the minimum charges prescribed in the Commission's Minimum Rate Tariff No. 2 and respondent, L. A. Mason Trucking Co., should be required to pay a fine of \$2,000.

O R D E R

IT IS ORDERED that:

1. On or before one hundred and twenty days after the effective date of this order, respondent shall pay a fine to the Commission in the sum of \$2,000.
2. If respondent has not complied with this order by paying said fine within the time designated, the Commission shall institute appropriate action against respondent to collect said fine.
3. Respondent shall examine its records for the period from January 1, 1962, to the present time for the purpose of ascertaining all undercharges that have occurred.
4. Within ninety days after the effective date of this order, respondent shall complete the examination of its 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. 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 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, 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 respondent. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 12th day of MARCH, 1963.

George H. Hoover
President

John E. [unclear]

Robert [unclear]

Fredrick B. [unclear]

William W. Bennett
Commissioners